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Professional Notes.

WHAT has been known as the *Harman* case, which occupied a Judge and jury for nearly three weeks in the Central Criminal Court, was brought to a conclusion about the middle of last month, and resulted in the conviction of Martin Coles Harman and Berkeley Fairfax Conigrave, the former being sentenced to eighteen months and the latter to six months imprisonment in the second division. The other defendants, Emile Georges Changeat and Herbert Hely Pounds were found not guilty. The jury recommended Conigrave to mercy, and the Judge said that he entirely agreed with that recommendation.

In the course of his summing up, Mr. Justice Macnaghten said the case was one of grave importance, not only to the defendants but to the public. It was a case of great complication, but most of the facts were not in dispute. The charge was that the defendants had applied the funds of their company not for the uses and purposes of the company of which they were directors, but for the uses and purposes of other companies in which two of the defendants at least were directly interested.

At the Liverpool Assizes last month, Fred Hodgson, described as an accountant, was sentenced to eighteen months imprisonment in the second division for obtaining money by false pretences. In the course of the evidence it appeared that during the twelve months prior to his arrest he had obtained sums amounting to over £1,000 from persons investing as partners in his various businesses which were not genuine, or as premiums for articling young men or giving them tuition in accountancy. A report of the case will be found in another column, for which we are indebted to the *Liverpool Echo*.

A new Act has just been brought into force by the French Legislature, the main object of which appears to be to prevent the control of French companies from falling into foreign hands. It is stated that hitherto half the total votes of shareholders in companies formed in France have been under the control of about 6½ per cent. only of the total capital. This has been effected by giving certain privileged shares a large number of votes, with the result that the purchase of a small number of these shares

frequently carried with it the control of the company. Incidentally it would seem that the provisions of the new Act with regard to foreign shareholders may have the effect of excluding them from equal voting rights.

Some people are easily enamoured with proposals for regulating the lives of the King's subjects, especially those engaged in any form of business. A correspondent writes to *The Times* that "suggestions have been made from time to time that every firm or individual carrying on business should be obliged to have the books audited and the profit certified, with a view to the benefit of the Inland Revenue. In order to limit the expense, which for a small business might be a real hardship, I suggest that there should be a panel of Chartered and Incorporated Accountants, and that every firm should stamp a weekly audit card, or, in the alternative, produce a certificate from a firm of accountants that they were already employing a regular auditor. Such a procedure would not be necessary for public companies, but it might be advisable to include all private companies."

In considering this proposal from a professional standpoint we wonder how the "panel of Chartered and Incorporated Accountants" would be compiled, and how long the discharge of the duties of the members as independent auditors would continue. The eventual outcome of a suggestion such as this might be the creation of another Government Department allied to the Inland Revenue, and a further step towards the employment of an army of officials to watch persons engaged in every department of industrial and commercial activity.

A question of some interest in relation to the inspection of the accounts of local authorities by ratepayers was decided in the King's Bench Division last month. It related to the affairs of Bedwellty Urban District Council, where one of the ratepayers claimed the right to inspect the books and accounts of the council with the assistance of an agent who was an Incorporated Accountant. Sect. 247 of the Public Health Act, 1875, provides that the books and accounts of an Urban District Authority "shall be open during office hours to the inspection of all persons interested for seven clear days before the audit, and all such persons shall be at liberty to take copies of or extracts from the same without fee or reward."

It was claimed on behalf of the Council that the accountant, not being a ratepayer, was not a "person interested," and that he was accordingly not entitled to inspect. Under sect. 60 of the Rating and Valuation Act, 1925, there is an express authority for the ratepayer to employ an agent, but the inspection in this case is much more limited, being restricted to income only and not extending to expenditure. It was admitted that inspection of the income of the Council could be made by an agent under this section, but it was argued that the fact of an agent being specifically authorised to inspect in this case was a justification for the contention that, as no reference was made to an agent in the other section, it was not intended that an agent should be employed. The ratepayer who desired the inspection of the books and accounts was the secretary of a local Rent and Ratepayers' Association.

On behalf of the ratepayer it was argued that it was quite usual to appear by an agent before the auditor, and that the same principle should apply to the inspection of the books and accounts. While it was admitted that there was no direct authority, it was urged that, owing to the complicated nature of the accounts and the technical manner in which they were kept, no one who was not an expert accountant could effectively inspect them. This view was accepted by Mr. Justice Avory in deciding in favour of the ratepayer. He said that a similar view had been expressed by Mr. Justice Parker in the case of *Norey* v. *Keep* in dealing with a somewhat analagous provision in the Trade Union Act as to the right of inspection of books by any person having an interest. Mr. Justice Charles and Mr. Justice Lawrence concurred, and an order was accordingly made authorising the accountant to make the inspection.

Another case of refusal to allow inspection of Corporation Accounts occurred in Liverpool, in connection with which a Labour councillor issued a summons on the Town Clerk for refusing to allow inspection of the books of the City Treasurer in relation to the councillors' expenses on deputations during the past year. The right to inspect was claimed under sect. 233 of the Municipal Corporations Act, 1882. In giving his decision, the Stipendiary Magistrate said he had come to the conclusion that the Treasurer's accounts referred to in the section under which the proceedings were taken were "the yearly accounts which are made up by the City Treasurer to March 31st each year, when audited in accordance with the appropriate Acts." It therefore followed that the remedy of the councillor

was not to be found within that section. The remedy, if any, must be sought in another Court. The summons was accordingly dismissed, the Stipendiary consenting to state a case upon being served with the necessary notice.

Can limited companies act as solicitors? In the King's Bench Division last month an appeal by the Law Society was heard in which they claimed that United Service Bureau, Ltd., not having in force a practising certificate, wilfully pretended to be solicitors. It was proved or admitted that the company, through their governing director, wrote letters which, in the submission of the Law Society, were contraventions of sect. 46 of the Solicitors Act, 1932. For the Law Society it was contended that the defendant company could not practise as solicitors; they could, on the other hand, wilfully pretend to be qualified to act as such. The company said that they did not, by the letters in question, wilfully pretend to be qualified to act as solicitors, and further, that a corporation could not be guilty of an offence under the section of the Solicitors Act referred to.

The section in question provides that "any person not having in force a practising certificate, who wilfully pretends to be or takes or uses any name, title, addition or description implying that he is qualified or recognised by law as qualified to act as a solicitor shall be liable on summary conviction to a penalty not exceeding £10 for each such offence," and by the Interpretation Act, 1889, it is provided that "in the construction of every enactment relating to an offence punishable on indictment or on summary conviction whether contained in an Act passed before or after the commencement of this Act, the expression 'person' shall, unless the contrary intention appears, include a body corporate."

In delivering judgment, Mr. Justice Avory said the only question with which the Court was concerned was whether a corporation could be guilty of an offence under sect. 46 of the Solicitors Act, 1932. At that stage they had nothing to do with the question whether on the facts of the case an offence had been committed. It was clear, he said, beyond all possibility of argument, that a corporate body could not be admitted as a solicitor and could not therefore be qualified under sect. 43 of the Act and could not have in force a practising certificate within the meaning of sect. 46. Seeing that sect. 46 by its words contemplated that the person who committed the offence there provided against meant some person who could have in force a practising certificate, it was clear that the corporate body in the present case could not come within the word "person" in that section. The real reason for the difficulties created was that the legislature must have overlooked the fact that a corporate body might do that which was forbidden in the case of an individual. In other words, there was no provision in the Act dealing with such a case as the present, and the appeal must accordingly be dismissed. Mr. Justice Charles and Mr. Justice Lawrence concurred, the former remarking that it might be that Parliament had not contemplated a body corporate taking on itself powers to act as a solicitor.

In the case of *St. James's and Pall Mall Electric Light Co., Ltd.* v. *Westminster Assessment Committee*, a question was decided by the House of Lords as to whether, in arriving at the gross and rateable values of properties for the purpose of assessment to rates, certain sums which there was an obligation by statute to set aside annually by way of sinking funds, should be excluded from the gross receipts or allowed as a deduction therefrom in arriving at the assessable value on what is usually known as the "profits basis." One of the sinking funds in question was being raised for the purpose of enabling the Electric Light Company to create a fund which in the year 1971 (on which date it was arranged that the undertaking should be transferred to the Joint Electricity Authority free of charge) would be equivalent to the value of the 1925 assets. The other sinking fund was for the purpose of dealing similarly with the assets acquired after 1925, although in 1971 it would not cover the entire cost.

The Divisional Court held that, in arriving at the rateable value on the "profits basis," the sinking fund payments must be deducted from the profits because a hypothetical tenant would not pay a higher rent to collect revenue from which he could derive no benefit, but the Court of Appeal took a contrary view.

Lord Atkin, in delivering judgment in the House of Lords, said that the problem before them was—what annual rent might the company be expected, taking one year with another, to pay for the hereditament if a tenant undertook to pay rates and taxes and the landlord to bear the cost of repairs and insurance. Various methods had been adopted for determining such rent, but the most usual system was to adopt

the "profits basis" which was the outcome of a number of judicial decisions. In his opinion, the Court of Appeal was right in concluding that the amount set aside annually for the two sinking funds should not be deducted. These sums had nothing to do with the expenses of earning the gross receipts or with repairs. They plainly related to the application of the balance by the company either as hypothetical tenant or as hypothetical landlord, and were therefore irrelevant as to the calculation of rent on the "profits basis," or indeed on any basis. The contention of the Electric Light Company accordingly failed, and the appeal was dismissed with costs.

One of the Articles of Association of a company provided that "the Governing Directors shall have power from time to time and at any time to appoint and remove at will additional directors. . . . In all questions arising, the opinion of the Governing Director or Directors shall prevail." A resolution purported to have been passed by two of the three governing directors appointing two additional directors of the company, and the question arose whether the words "the opinion of the governing directors" meant the whole of those directors or only a majority of them.

An action was brought asking for a declaration that the appointment was invalid in the absence of a unanimous resolution. The case, viz., *Perrott & Perrott Limited* v. *Stephenson*, came before Mr. Justice Bennett, who held that, although it was a rule of corporation law laid down in decided cases that when a duty is delegated to a body of persons, those persons can act at a meeting by a majority, that rule was not applicable in the case of Articles of Association of limited companies, but was restricted to cases where the duty to be performed by a corporation was a duty of a public nature. It therefore followed that the determination of the question depended upon the construction of the Articles, and in the opinion of the Court the true construction of the Articles in this case was that the powers conferred on the governing directors were to be exercised by all of them unanimously.

On the subject of new capital issues, the Prime Minister stated in answer to a question in the House of Commons last month, that there was now no obstacle to new capital issues for expenditure within the Empire where these issues were made on behalf of borrowers in the United Kingdom or in any part of the Empire. He further stated that statutory provision already existed for encouraging development within the Colonial Empire in particular, subject to the recommendation of the Colonial Development Advisory Committee.

CERTIFICATION OF TRANSFERS.

WHERE a shareholder sells some of the shares comprised in a certificate or sells some of the shares to one person and the remainder to another person, he deposits the certificate with the company whose officer notifies on the transfer that the certificate has been lodged. This well-known practice of certification is designed to meet the difficulty experienced by the Stock Exchange in settling their accounts as buyers and sellers of shares where the seller's certificate does not accompany the transfer. It must amount to a representation that the transferor has lodged with the officer of the company documents showing that the transferor has a right of title to the shares he is transferring. There is, however, no warranty of title. In *Bishop* v. *Balkis Consolidated Company* (1890) P., a shareholder in the defendant company, transferred his shares to a purchaser, and his share certificate was lodged with the company to enable the purchaser to complete his title. P. subsequently purported to transfer a portion of the shares to another purchaser, who again sold, and executed a transfer of the shares to the plaintiff. The last-mentioned transfer was certified by the defendants' secretary, in the usual way, by placing upon the transfer the words "certificate lodged," although no certificate was in fact lodged in respect of such transfer, and upon the faith of such "certification" the plaintiff paid the price of the shares. The defendants subsequently refused to recognise the plaintiff as the owner of the shares. It was held that such a "certification" could only be taken to amount to a representation by the defendants that a document or documents had been lodged with them apparently in order, and showing *prima facie* that the transferor was entitled to the shares, *i.e.*, either what purported to be a certificate that he was the registered owner of the shares, or what purported to be a certificate that someone else was such owner, accompanied by a document or documents purporting to transfer the shares from such person to the transferor; but that the "certification" did not import a warranty of the transferor's title or of the validity of the document or documents; that it did not therefore estop the defendants from impugning the plaintiff's title on the ground of the invalidity of the transfer to

the plaintiff's transferor; that the plaintiff could not therefore make a title to the shares against the defendants by estoppel; and that, as no action would lie against the defendants for a careless misrepresentation without fraud, the plaintiff could not recover.

In no case is a company bound to certify transfers, nor is it estopped by the certification of its secretary, where no certificate has been lodged with him and it is not liable for fraud (*Whitechurch* v. *Cavanagh*, 1902). If by mistake the company returns to the transferor the share certificate lodged with it, and the transferor is thus enabled to obtain money on another transfer of the shares, it is not liable to the second transferee as it has no duty to the public with regard to the custody of the certificate (*Longman* v. *Bath Electric Tramways*, 1905). In that case the Court of Appeal held that if a company, having a certificate of shares in its possession, certifies a transfer of those shares to a proposing transferee, no duty is thrown on the company, with regard to the custody of the certificate, towards any person other than the proposing transferee, or any person claiming through him. The secretary of a company does not, when giving a transferee of shares the usual receipt for the transfer upon its being lodged for registration, thereby bind the company either to recognise the transferee's title to the shares or to issue the corresponding share certificate.

Arising out of the Hatry frauds, Kleinworts brought an action against Associated Automatic Machine Corporation. Secretarial Services Limited (one of the Hatry group, of which Daniels was a director) acted as registrar of some sixty companies, including the Associated Automatic Machine Corporation. Acting through two of its clerks, Secretarial Services, on the instructions of Daniels, had certified three transfers of shares in the Associated Corporation, when, in fact, the certificates for those shares had not, contrary to the certification, been lodged with the company. In one case the shares did not exist, and in two other cases the shares were not registered in the names of the transferors mentioned in the transfers, but in the names of other persons who had not authorised the transfer. Daniels thus obtained the irregular certification. He then lodged the transfers as security for loans of over £100,000 made by Kleinworts to the Dundee Trust and the Austin Friars Trust, of both of which he was also a director, and for which Secretarial Services also acted as registrar. Subsequently came the Hatry crash, causing the shares of the Associated Corporation to drop to a purely nominal value, and when Kleinworts attempted to obtain definitive share certificates in exchange for the certified transfers which they lodged for registration a day or two after the transfers came into their hands, the Associated Corporation refused to register the transfers on the ground that the transferors of the shares had no title. Mr. Justice Avory gave judgment for Kleinworts on the principle laid down in *Lloyd* v. *Grace, Smith & Co.* (1912) that a principal is liable for the fraud of his agent acting within the scope of his authority, whether the fraud is committed for the benefit of the principal or for the benefit of the agent. The defendants, however, relied on *Whitechurch* v. *Cavanagh* (*supra*), where the House of Lords held that the authority of a company's secretary to certify transfers extended only to cases in which certificates for the shares had actually been lodged with the company so that a false certification was outside the scope of his agency. Mr. Justice Avory held that the position and implied authority of the secretary in that case was distinguishable from that of Secretarial Services Limited.

The Court of Appeal, however, recently reversed this decision of Mr. Justice Avory, and held that the principle of *Whitechurch* v. *Cavanagh* applied. It decided that Secretarial Services Limited acted beyond the scope of their employment, as they had no authority to state that a certificate had been lodged when it had not in fact been lodged.

DEPRECIATION AND OBSOLESCENCE.

[CONTRIBUTED.]

THE papers prepared for the International Congress on Accounting raised the question as to what accountants really seek to achieve in dealing with depreciation and obsolescence. Half a dozen definitions were offered. Is depreciation a provision for an apportionment between capital and expense; the measure of the exhaustion of effective life; the writing off of expired capital outlay; or "a mere loss in value" from whatever cause? These are not different names for the same thing, but represent different objectives. There seem to be at least the following distinct points of view:—

(1) That depreciation is a provision for the writing off of expired capital outlay. This has been consistently pressed by Mr. P. D. Leake, who bases the whole consideration upon a past happening—the expenditure of certain funds—but it is clear that the cost of an article produced to-day for sale has no necessary relation to the cost of a machine, purchased perhaps five years ago, which is used to make the article.

(2) That the basis of any depreciation calculation is an actual present and continuous fact—wear and tear. The measurement of this has no necessary relation to the expiration of capital outlay.

(3) That it represents a measurement of loss in value; but "value" is an ambiguous expression. Is it to be thought of in terms of earning power, or in relation to replacement cost? In either case, loss in value in a given period has no direct relation to cost or wear and tear.

(4) There is yet another alternative: Is the fundamental consideration the preparation of a costing statement, an endeavour to assess the machine factor in the cost of the product? If so, and there is a cost by new and improved machinery, this latter is the true current cost of the article, and the difference between that cost and a calculation based on the expired portion of the cost of the machine used is a loss of capital previously incurred, and not a revenue loss at all.

There is also a "depreciation" of intangible assets, goodwill, patents, &c., which are subject to separate but more or less parallel considerations.

Perhaps the difficulty arises from a failure to keep things that differ separate, for there are certainly two problems: (1) the statement of the balance sheet, and (2) the determination of annual profit or loss. If we are, in future, to certify both statements, the distinction will become still more important to the auditor.

A balance sheet represents a photograph of the position of the business at a given moment of assumed equilibrium in the manufacturing process—that is to say, a valuation. There are two possible valuations at any time, a going concern value (which is a capitalisation of earnings) and a break-up value; the latter is outside the purview of an ordinary balance sheet statement and can be ignored for present purposes. A profit and loss account involves the question of the appropriate charge against the current earnings; that is to say, the cost of the production represented in sales as adjusted by stocks. It is submitted that these two quite distinct matters should be separately considered, and adjustment made between the two results.

The cost of the goods produced to-day is the value of the material consumed and the expenditure in wages, &c., plus the actual wear and tear of to-day's means of production. It is not relevant to cite the cost of the machine two years ago if the cost of a similar machine to-day is materially different, or if to-day's machine is substantially more efficient. These differences are the measure of the obsoleteness of the machine used and represent a loss of capital, not a charge against revenue. Confusion is inevitable if in the working accounts, depreciation and obsolescence are treated as one factor instead of two.

It is suggested that—

(1) The true statement of value for the purpose of the balance sheet is a function of earning power; it may be convenient to deal with this by annual percentage, periodically reviewed, but in fixing the percentage it is the diminution of this power which should be kept steadily in mind.

(2) The appropriate figure for a charge against the production for any year is the assessment of the "wearing-out" of a current machine.

(3) The difference between the necessary credit to the asset account and the charge against current production is obsolescence and should be separately regarded, not as a charge against the profits of the period, but as an appropriation out of profits (present or past) for the replacement of capital.

Society of Incorporated Accountants and Auditors.

COUNCIL MEETINGS.

A meeting of the Council of the Society was held at Incorporated Accountants' Hall on Tuesday, November 28th, when there were present: Mr. E. Cassleton Elliott (President), Mr. R. Wilson Bartlett (Vice-President), Mr. R. M. Branson, Mr. W. Norman Bubb, Mr. Henry J. Burgess, Mr. Arthur Collins, Mr. W. Allison Davies, Mr. Frederick Holliday, Mr. Walter Holman, Mr. Thomas Keens, Sir James Martin, Mr. C. Hewetson Nelson, Mr. James Paterson, Mr. William Paynter, Mr. Arthur E. Piggott, Mr. James Stewart Seggie, Mr. Percy Toothill, Mr. A. H. Walkey, Mr. R. T. Warwick, Mr. E. W. C. Whittaker, Mr. Richard A. Witty, Mr. A. A. Garrett (Secretary), and Mr. E. E. Edwards (Parliamentary Secretary).

Apologies for non-attendance were received from Mr. Frederic Walmsley, Mr. D. E. Campbell, Mr. E. T. Kerr, Mr. Edmund Lund, Mr. Henry Morgan, Mr. W. H. Payne, Mr. Alan Standing, Mr. F. Woolley, and Mr. J. R. W. Alexander (Standing Counsel).

DEATHS.

The Secretary reported the death of the following members: William Henry Dunlop (Fellow), Dublin; Cyril Holmes Goldthorpe (Fellow), Leeds; Walter Frederic Kightly (Fellow), London; Charles Stubbs (Associate), Adelaide, Australia.

Special Meeting.

The President (Mr. E. Cassleton Elliott) also presided at a special meeting of the Council held on Tuesday, November 28th.

Upon consideration of a report of the Disciplinary Committee, Mr. Alfred Armstrong, of 2, Cooper Street, Manchester (Fellow), was excluded from membership of the Society.

Also upon consideration of a further report of the Disciplinary Committee, Mr. Harold Smith, of 60, Queen Victoria Street, London, E.C. (Associate), was excluded from membership of the Society.

TAXATION OF NON-RESIDENT TRADERS THROUGH AGENTS.

We are indebted to the Association of British Chambers of Commerce for the following Memorandum which has been revised to November, 1933, by the Inland Revenue :—

LIABILITY OF NON-RESIDENT.

Non-residents trading in the United Kingdom* through agents are made liable to Income Tax by the charging section of Schedule D in the Income Tax Act, 1918, which provides :

> "Tax under this Schedule shall be charged in respect of . . . the annual profits and gains arising or accruing to any person, whether a British subject or not, although not resident in the United Kingdom . . . from any trade . . . exercised within the United Kingdom."

NON-RESIDENT CHARGEABLE IN NAME OF AGENT, &c.

The general provisions in regard to the extent of the liability of the non-resident and the person in whose name the assessment is to be made, are contained in Rule 5 of the General Rules :

> "A person not resident in the United Kingdom, whether a British subject or not, shall be assessable and chargeable in the name of . . . any factor, agent, . . . whether such factor, agent . . . has the receipt of the profits or gains or not, in like manner and to the like amount that such non-resident person would be assessed and charged if he were resident in the United Kingdom."

And Rule 6 of the General Rules reads as follows :

> "A non-resident person shall be assessable and chargeable in respect of any profits or gains arising, whether directly or indirectly, through or from any factorship, agency, receivership, branch or management, and shall be so assessable and chargeable in the name of the factor, agent, receiver, branch or manager."

The liability of the Agent to make returns is dealt with in sect. 101 :

LIABILITY OF AGENT TO MAKE RETURNS.

> "Every person acting in any character on behalf of any person not resident in the United Kingdom, who by reason of such . . . non-residence in the United Kingdom cannot be personally charged under this Act, shall whenever required to do so by any general or particular notice . . . deliver . . . a statement of the profits and gains in respect of which the tax is to be charged on him on account of that other person."

AND TO PAY DUTY.

The liability of the Agent to pay the duty is set out in Rule 13 of the General Rules :

> "The person . . . in whose name a non-resident person is chargeable shall be answerable for all matters required to be done under this Act for the purpose of assessment and payment of tax."

INDEMNIFICATION OF AGENT.

The indemnity of the Agent against his principal is dealt with in Rule 14 of the General Rules :

> "Any person who has been charged under this Act in respect of any . . . non-resident person . . . may retain out of money coming into his hands on behalf of any such person, so much thereof from time to time as is sufficient to pay the tax charged, and shall be indemnified for all such payments made in pursuance of this Act."

LIMITATION OF LIABILITY ON THE PART OF NON-RESIDENT MANUFACTURER OR PRODUCER.

The liability to British Income Tax in the case of a non-resident manufacturer or producer may not extend to the full amount of the profits made from the sales effected through the agency or branch in the United Kingdom. On application to the Commissioners in the manner directed in Rule 12 of the General Rules, the assessments may be restricted

> "on the basis of the profits which might reasonably be expected to have been earned by a merchant or, where the goods are retailed by or on behalf of the manufacturer or producer, by a retailer of the goods sold, who had bought from the manufacturer or producer direct."

Further, the liability to British Income Tax does not extend to profits arising to a non-resident from transactions with other non-residents, although such transactions may be effected through an agent here. Rule 11 of the General Rules provides :

> "The fact that a non-resident person executes sales or carries out transactions with other non-residents in circumstances which would make him chargeable in pursuance of these rules in the name of a resident person shall not of itself make him chargeable in respect of profits arising from those sales or transactions."

CHARGE ON PERCENTAGE OF TURNOVER WHERE PROFIT CANNOT BE READILY ASCERTAINED.

Where the true amount of the profits or gains of any non-resident person from the trade exercised in the United Kingdom cannot be readily ascertained, the Commissioners may, if they think fit, assess the non-resident person on a percentage of the turnover of the business done through the agent. The provisions in regard to the determination of this percentage are contained in Rules 8 and 9 of the General Rules.

TRADING WITHIN CONTRASTED WITH TRADING WITH THE UNITED KINGDOM.

The liability to Income Tax arises in connection with trade exercised *within* the United Kingdom, but does not extend to the profits of trading *with* the United Kingdom.

WHAT CONSTITUTES TRADE EXERCISED WITHIN THE UNITED KINGDOM.

The question of what constitutes trade exercised *within* the United Kingdom has been the subject of numerous judicial decisions ; in this connection reference may be made to the cases of :

Grainger v. *Gough* (1896), A.C. 325.
Smidth v. *Greenwood* (1922), 1 A.C. 417.
Wilcock v. *Pinto & Co.* (1925), 1 K.B. 30.
Maclaine & Co. v. *Eccott*, 131 L.T. 601.
Gavazzi v. *Mace* (1926), 135 L.T. 634 ; 42 T.L.R. 389 ; 10 T.C. 698.
Belfour v. *Mace* (1928), 138 L.T. 338 ; 13 T.C. 539.

The Courts have indicated that "it would in the first place be nearly impossible, and secondly wholly unwise, to attempt to give an exhaustive definition of what is a trade exercised in this country." The primary factor is whether or not the contracts for the sale of goods or performance of services are made in the United Kingdom.

*The expression United Kingdom in this memorandum means Great Britain and Northern Ireland.

Whether or not in a particular case trade is exercised within the United Kingdom is a matter for determination by the appropriate body of Income Tax Commissioners and not by the Board of Inland Revenue.

TRANSACTIONS THROUGH GENERAL COMMISSION AGENTS AND BROKERS AND PERSONS NOT CARRYING ON THE REGULAR AGENCY OF THE NON-RESIDENT.

The provisions in regard to sales through general commission agents and brokers, &c., are contained in Rule 10 of the General Rules of the Income Tax Act, 1918, which has recently been modified by sect. 17 of the Finance Act, 1925. Rule 10 provides that :

> "Nothing in these Rules shall render a non-resident person chargeable in the name of a broker or general commission agent or in the name of an agent not being an authorised person carrying on the regular agency of the non-resident person or a person chargeable as if he were an agent in pursuance of these Rules, in respect of profits or gains arising from sales or transactions carried on through such a broker or agent."

Sect. 17 of the Finance Act, 1925, reads as follows :

> "(1) Where sales or transactions are carried out on behalf of a non-resident person through a broker in the ordinary course of his business as such, and the broker satisfies the conditions required to be satisfied for the purposes of this section, then notwithstanding that the broker is a person who acts regularly for the non-resident person as such broker, the non-resident person shall not be chargeable to Income Tax in the name of that broker in respect of profits or gains arising from those sales or transactions."
>
> "(2) The conditions required to be satisfied for the purposes of this section are that the broker must be a person carrying on *bona fide* the business of a broker in Great Britain or Northern Ireland, and that he must receive in respect of the business of the non-resident person which is transacted through him remuneration at a rate not less than that customary in the class of business in question."
>
> "(3) In this section the expression 'Broker' includes a general Commission Agent."
>
> "(4) Rule 10 of the General Rules shall have effect subject to the provisions of this section."

Rule 10 as modified by sect. 17 is mainly designed to exempt non-residents from liability to assessment in the name of brokers and general commission agents in respect of transactions carried out in the United Kingdom for non-residents, in so far as the transactions are carried out by the broker or general commission agent in the ordinary course of his business as such for a rate of remuneration not less than that customary in the class of business in question. The questions whether in a particular case an agent is a general commission agent or broker, whether an agent is an authorised person carrying on the regular agency of the non-resident, or whether the transactions fall within the scope of these provisions, are all matters for the determination of the appropriate body of Income Tax Commissioners and not of the Board of Inland Revenue.

NON-RESIDENTS' CONTROL OVER RESIDENTS.

Rule 7 of the General Rules, which gives further powers of assessment in certain special circumstances, does not apply to a British, Indian, Dominion or Colonial firm or company.

RELIEF FROM DOUBLE TAXATION UNDER RECIPROCAL AGREEMENTS.

Sect. 17 of the Finance Act, 1930, authorises the conclusion of arrangements with other countries for relieving from double taxation certain profits arising through an agency.

Sect. 17 of the Finance Act, 1930, reads as follows :

> 17. (1) Subject to the provisions of this section if His Majesty in Council is pleased to declare :
>
> (*a*) that any profits or gains arising directly or indirectly to a person resident in any foreign state or in any part of His Majesty's dominions outside the United Kingdom through an agency in the United Kingdom or to a person resident in the United Kingdom through an agency in any foreign state or in any part of His Majesty's dominions outside the United Kingdom are chargeable both to United Kingdom income tax and to income tax payable under the law in force in that foreign state or that part of His Majesty's dominions ; and
>
> (*b*) that arrangements as specified in the declaration have been made with the Government concerned with a view to the granting of relief from such double taxation,
>
> then, unless and until declaration is revoked by His Majesty in Council, the arrangements specified therein shall, so far as they relate to the relief to be granted from United Kingdom income tax, have effect as if enacted in this Act, but only if and so long as the arrangements, so far as they relate to the relief to be granted from the income tax payable in the foreign state or in the part of His Majesty's dominions, have the effect of law in the foreign state or the part of His Majesty's dominions :
>
> Provided that no arrangements made under this section shall exempt from United Kingdom income tax any profits or gains which either :
>
> (i) arise from the sale of goods from a stock in the United Kingdom ; or
>
> (ii) accrue to a person resident in the United Kingdom ; or
>
> (iii) accrue to a person not resident in the United Kingdom directly or indirectly through any branch or management in the United Kingdom or through any agency in the United Kingdom where the agent has and habitually exercises a general authority to negotiate and conclude contracts.
>
> (2) Any declaration made by His Majesty in Council under this section shall be laid before the Commons House of Parliament as soon as may be after it is made and, if an address is presented to His Majesty by that House within twenty-one days on which that House has sat next after the declaration is laid before it, praying that the declaration may be revoked, His Majesty in Council may revoke the declaration and the arrangements specified in the declaration shall thereupon cease to have effect, but without prejudice to the validity of anything previously done thereunder or to the making of a new declaration.
>
> (3) The obligation as to secrecy imposed by any enactment with regard to income tax shall not prevent the disclosure to any authorised officer of the foreign state or part of His Majesty's dominions mentioned in the declaration of such facts as may be necessary to enable relief to be duly given in accordance with the arrangements specified in the declaration.
>
> (4) In this section the expression "His Majesty's dominions" includes any territory which is under

His Majesty's protection or in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by the Government of some part of His Majesty's dominions.

Agreements have been made under this section with Sweden and Switzerland and embodied in Declarations in Council dated October 26th, 1931, and November 10th, 1932, respectively (S.R. & O., 1931, No. 932, and 1932, No. 925; the agreements are published as White Papers, Cmd. 3923 and 4142).

APPEALS.

If a non-resident is dissatisfied with any assessment made upon him, he can appeal either to the General or to the Special Commissioners. The decision of those Commissioners on a question of fact is final, but either party to the appeal, the non-resident or the Revenue, can appeal to the Courts against the Commissioners' decision on a point of law. Further, the non-resident person, if dissatisfied with the percentage determined under Rule 9, may require Commissioners to refer the question to a Referee or Board of Referees to be appointed for the purpose by the Treasury.

DIGEST OF HIGH COURT CASES.

A digest of the Income Tax Cases bearing on the liability of non-residents appears on pages 855 to 869 of Harrison's *Index to Tax Cases* (4th Edition) and Second Supplement, pp. 343-4.

ACTION FOR WRONGFUL DESCRIPTION.

Mr. Justice Luxmoore in the Chancery Division recently, at the instance of the Institute of Chartered Accountants, made an order restraining Mr. Frederic John Forster, of County Chambers, Marton Lane, Middlesbrough, from permitting himself to be described as a Chartered Accountant or any firm of which he is a partner from being described as Chartered Accountants, and restraining him from using on stationery as a professional designation the letters F.C.A.

Mr. Forster appeared personally, and when Mr. Vanneck, for the Institute of Chartered Accountants, said he had to ask for judgment in this motion by the Institute in default of defence, Mr. Forster said he complied with the requirements of the Institute when he heard of them, and that was long ago, and he thought there should have been an end of the matter then. He was now only a clerk in the office.

Mr. Justice Luxmoore explained that what in fact happened was that Mr. Forster made an agreement in an interlocutory motion, but he did not submit to the order being made a final order. Had he at that time consented to treat the motion as the trial there would have been an end of the matter. As no defence had now been entered, the Court had no alternative but to make the order asked for—in the form in which his Lordship made it. Mr. Forster would deliver up the certificate of membership.

INCORPORATED ACCOUNTANTS' BENEVOLENT FUND.

The 41st Annual Meeting of the Subscribers to this Fund was held at Incorporated Accountants' Hall on Thursday, November 30th, the date of the publication of this issue. A full report of the proceedings will appear in the January number of the *Incorporated Accountants' Journal.*

Clients' Moneys and Accounts.

A LECTURE delivered at Bristol to the West of England District Society of Incorporated Accountants by

MR. RICHARD A. WITTY,
INCORPORATED ACCOUNTANT.

The chair was occupied by Mr. S. FOSTER, F.S.A.A., the President of the local Society.

Mr. WITTY said:—The general question of Clients' Moneys and Accounts is not peculiar to the solicitor, but affects in varying degrees almost every other professional man. It is certainly of equal importance to the professional accountant, and the time has surely arrived when all professional bodies should demand from their members a definite standard of conduct in relation to this matter. The subject has, however, obtained most prominence and publicity in connection with the legal profession and the passing of the Solicitors Act, 1933, is the culmination of an agitation which has been carried on for over 30 years. Credit must be given to the Law Society for the part it has played in keeping the question of clients' moneys continuously in the minds of members. As long ago as 1900 the Law Society appointed a special committee to consider, *inter alia*, the important question of accounting in relation to clients' moneys. I need not trouble you with the detailed report of that committee, but it may be noted that it embodied the view that at that date there was no absolute necessity for a separate banking account to be kept for clients' moneys, although, at the same time, the committee expressed the hope that this course would be adopted. The recommendation was too feeble to be effective, and it has taken a further 33 years to obtain statutory enforcement of the proposals then mooted.

It must, of course, be made quite clear at the outset that the number of fraudulent solicitors is very small indeed when compared with the total number of practitioners. Statistics or percentages in this connection, however, are of but little use because one single case in a body of, say, 10,000 practitioners, may be enough to seriously undermine the confidence of the public, and, after all, it is the confidence of the public which really constitutes the goodwill of any profession.

I propose to divide my address into three sections, as follows:—

1. The provisions of the Solicitors Act, 1933, and the draft Rules thereunder which have been prepared and issued by the Law Society for submission to the Master of the Rolls.
2. A consideration of these provisions from the accountancy angle of view.
3. The necessity, or otherwise, of applying similar provisions to the accountancy profession.

1. PROVISIONS OF THE SOLICITORS ACT, 1933, AND THE DRAFT RULES THEREUNDER.

Firstly then, let us examine what has been actually achieved by the legal profession. The Solicitors Act, 1933, provides as follows:—

Section 1.—The Council of the Law Society shall make rules:—

(*a*) As to the opening and keeping by solicitors of accounts at banks for clients' moneys; and

(*b*) as to the keeping by solicitors of accounts containing particulars and information as to moneys received, held or paid by them, for or on account of their clients; and

(*c*) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with.

Section 2.

(1) If a solicitor fails to comply with any of the rules made under the preceding section, any person may make a complaint in respect of that failure to the disciplinary committee.

(2) The provisions of Part 1 of the Solicitors Act, 1932, shall apply in relation to complaints under this section as they apply in relation to applications to the committee under the said Part 1 :

Provided that in addition to the powers conferred on the committee by sub-section 2 of section 5 of the said Act the Committee and, upon appeal, the High Court shall have power to impose on the solicitor a penalty not exceeding five hundred pounds, and any penalty so imposed shall be forfeit to His Majesty.

Those two sections are the operative sections of the Act so far as our subject is concerned. Of the remaining sections 3, 4, 5, 6 and 7 deal chiefly with certain exceptions of interest only to the legal profession. Section 8, however, known as the Banking Section, has an important bearing on our subject, because it lays down the exact position of the banks in relation to these special clients' banking accounts. It reads as follows :—

8.—(1) Subject to the provisions of this section no bank shall, in connection with any transaction on any account of any solicitor kept with it or with any other bank (other than an account kept by a solicitor as trustee for a specified beneficiary) incur any liability or be under any obligation to make any inquiry or be deemed to have any knowledge of any right of any person to any money paid or credited to any such account which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to it :

Provided that nothing in this sub-section shall relieve a bank from any liability or obligation under which it would be apart from this Act.

(2) Notwithstanding anything in the preceding sub-section, a bank at which a solicitor keeps an account for clients' moneys shall not, in respect of any liability of the solicitor to the bank, not being a liability in connection with that account, have or obtain any recourse or right, whether by way of set off, counter-claim, charge, or otherwise, against moneys standing to the credit of that account :

Provided that nothing in this sub-section shall deprive a bank of any right existing at the time when the first rules made under this Act come into operation.

I should interpolate here that Part 1 of the Solicitors Act, 1932, deals, *inter alia*, with the disciplinary powers of the Council of the Law Society and sub-section 2 of section 5 of that Act empowers the removal of a member's name from the Roll. This 1933 Act, you will observe, gives power to impose a fine in the case of an offence in relation to the keeping of a separate clients' account so that such an offence would not always be punished by removal from the Roll.

Under the provisions of section 1 of the Solicitors Act, 1933, the Law Society have prepared draft Rules for submission to the Master of the Rolls, and unless these Rules are amended or altered in any way they will have statutory effect as from January 1st, 1934. These rules are of great importance and we must consider them in detail. They read as follows :—

Rule 1.

Every solicitor shall keep such books and accounts as may be necessary to show (*a*) the receipts from or on account of and the payments to or on account of each of his clients and (*b*) the receipts and payments on his own account in connection with his practice as a solicitor.

Rule 2.

Every solicitor, who at the coming into force of these rules, holds or afterwards receives money on account of a client (save money hereinafter expressly exempted from the application of this rule) shall forthwith pay such money into an account at a bank, to be opened and kept in the name of the solicitor and designated as a separate account (hereinafter referred to as "a client account").

Rule 3.

No money shall be paid into a client account other than :—

(*a*) money held or received on account of a client ;

(*b*) such money belonging to the solicitor as may be required by a bank to be paid into the account for the purposes of opening or maintaining the account ;

(*c*) money for replacement of any sum which may improperly or by mistake or accident have been drawn from the account in contravention of Rule 4 of these rules :

Provided always that where a cheque or draft received by the solicitor on account of a client represents in part a payment of a debt already due from the client to the solicitor and in part a payment on account of the client such cheque or draft shall be paid into the client account.

Rule 4.

No money shall be drawn from a client account other than :—

(*a*) Money properly required for payment to or on behalf of a client or for or towards payment of a debt due to the solicitor from a particular client or money drawn on the client's written authority, but so that the money so drawn shall not in any case exceed the total of the money so held for the time being for such particular client ;

(*b*) such money belonging to the solicitor as may have been paid into the account under Rule 3 (*b*) of these rules ;

(*c*) money which may improperly or by mistake or accident have been paid into such account in contravention of Rule 3 of these rules.

Rule 5.

In order to ascertain whether these rules have been complied with the Council acting either on their own motion or on written complaint lodged with them may require any solicitor to produce, who shall then produce at some convenient time and place, his books of account, bank pass books, statements of account, vouchers and any other necessary documents for the inspection of any person appointed by the Council, and such person shall prepare for the information of the Council a report on the result of such inspection.

Such report may be used as a basis for proceedings under section 2 of the Solicitors Act, 1933. Provided that before instituting an inspection on a complaint made by a third person, the Council may require *prima facie* evidence that a ground of complaint exists, and the payment of a reasonable sum to be fixed by the Council to cover the expenses of the inspection.

Rule 6.

Rules, 2, 3 and 4 shall not apply to money which :—

(*a*) the client in writing authorises a solicitor to withhold from a client account ;

(*Note.*—Although this rule does not state so specifically I think we must interpret it as meaning that where a

solicitor obtains a written authority to withhold the client's money from the client banking account, the solicitor may pay such money into the office account. That seems the reasonable interpretation because later sub-sections deal with clients' moneys which are to be paid into a special named account or which need not be passed through a bank account at all.)

(*b*) the client instructs a solicitor to pay into a separate account opened or to be opened in the name of that client or some person named by that client ;

(*c*) in the ordinary course of business upon receipt is paid over on behalf of the client to a third party without being passed through any bank account ;

(*d*) is upon receipt paid to the client without being passed through any bank account ;

(*e*) is paid to a solicitor expressly on account of costs ;

(*f*) the Council upon an application made to them in writing by a solicitor specifically authorises to be withheld or withdrawn from a client account.

Rule 7.

Every requirement, authorisation and notification to be made and given by the Council under these rules shall be made in writing under the hand of such person as may be appointed by the Council for the purpose and sent by post to the last address of the solicitor appearing in the records of the Law Society, and when so made and sent shall be deemed to have been received by the solicitor within 48 hours of the time of posting.

Rule 8.

In these rules the expression the " Council " means the Council of the Law Society. The expression " solicitor " means a solicitor of the Supreme Court practising on his own account or a firm of solicitors practising in partnership.

Rule 9.

The Interpretation Act, 1889, shall apply to these rules as if these rules were an Act of Parliament.

The general effect of these rules will be that every solicitor in practice will be obliged to keep clients' moneys entirely distinct from his own moneys (subject to the exceptions which we will consider) and it is hoped by this means to avoid some of the unfortunate cases of misappropriation which arise from time to time.

Now let us consider whether these provisions under the Solicitors Act, 1933, and the relevant rules are likely to be helpful towards protecting the client from the occasional black sheep. Firstly, with regard to the compulsory keeping of all clients' moneys distinct from office moneys. It is obvious from the published reports of trials of fraudulent practitioners that the trouble which finally brought the man to the dock was not in the majority of cases due to deliberate criminal intentions. There have been many cases where the unfortunate result was indisputably due to the confusion in the accounting records. Where all moneys are kept in one omnibus account it is not at all easy for the practitioner to know at any given moment precisely how much of the money belongs to himself. Indeed, we can go much further and say that it is impossible for him to know the division unless he uses a particularly complete style of book-keeping which is kept continuously up to date. It is admittedly difficult to find any excuse for the accountant who fails to keep complete and accurate books of account, but to many solicitors double entry is still rather a mystery, and the further complication of more than one banking account leaves him hopelessly confused as to how he should keep his books. It has unfortunately been suggested on many occasions that the keeping of a separate account for clients' moneys would not make the book-keeping any more involved and that the system would present no difficulties. I say that idea is unfortunate because in my opinion it is definitely misleading. The adjustments which inevitably arise through the keeping of the two or more banking accounts call for accounting of a high standard, and unless this fact is definitely recognised it is to be feared that the new rules will fail to achieve their purpose. We will consider some of these adjustments later, and I think you will agree that even to the trained accountant they call for careful thought. It is a recognised fact that in at least some of the cases which have been brought into Court the solicitor who has used clients' moneys for his own personal purposes has done so in entire ignorance of the fact. When, if ever, he discovered the error it has been impossible for him to rectify it properly and thus has started the fatal game of robbing Peter to pay Paul. It is a magnified form of the petty cash trouble with which auditors are at times faced where the petty cashier, sometimes a mere lad, " borrows " a few pence or shillings, finds himself unable to repay the money and so drifts, sometimes all too quickly, into practices which can only be described as fraudulent.

The compulsory keeping of separate banking accounts should eliminate the initial inadvertence which might otherwise lead to the Criminal Court. That fact alone is sufficient justification in itself for the adoption of this reform.

During the past few years strong opposition to the proposals has been made at the meetings of the Law Society and elsewhere, but inasmuch as the statutory enforcement is now an accomplished fact it is not necessary to deal at length with the arguments of the opponents. As a body of accountants we are agreed that it is the duty of any professional society to insist upon such a course of conduct by its members in the practice of their profession that the public shall be protected by every possible means against the occasional wrongdoer. It has been strongly argued, however, that even if backed by statutory authority these proposals would not make or keep a man honest if he intended to be dishonest. Time will show whether there is any real foundation for that argument or not.

It is probably true that no man undertakes the training which is necessary for either the legal or accountancy professions and then starts in practice with any criminal intention. Human nature being what it is, however, we are forced to recognise that an honest man may be driven to dishonesty by the force of circumstances, but it will probably be true to say that in the majority of the cases the fault in its inception is due to the practitioner's ignorance of his own position. There will now be no excuse for that ignorance, but it would probably be wise to recognise the fact that these new regulations cannot afford any real protection against a wilfully dishonest professional man. The wider question of how clients can be protected against the fraud or bankruptcy of a professional man is too large to be included in our discussion this evening. It can be noted, however, that some form of compulsory mutual insurance is not impossible.

II.—NEW PROVISIONS CONSIDERED FROM THE ACCOUNTANCY ANGLE OF VIEW.

Now let us consider the provisions contained in these draft rules from a purely accountancy angle of view. The keeping of clients' moneys separate from office

moneys involves definite accountancy principles which may be briefly summarised as follows :—

(*a*) All moneys belonging to clients must be kept in a separate account ; (*b*) no money should be paid into the office banking account until it is finally and unquestionably the property of the practitioner ; this principle, in my judgment is an essential and natural corollary to the first principle ; (*c*) at any given date, after any necessary adjustments have been made, the balance in the clients' banking account should exactly correspond with the credit balances on clients' accounts in the ledger plus any sum belonging to the practitioner which may have been paid in to the clients' account for the purpose of opening or maintaining that account ; (*d*) the same principles must be applied in relation to disbursements as in relation to major moneys.

The draft rules are explicit as to the payments which are to be made into the clients' account, but apparently there is no actual definition of a client. Presumably, if a solicitor receives, say, an insurance premium that premium should be paid into the clients' account. Money would be drawn from that account to pay the insurance company and a transfer would be made to office account for commission and allowed expenses. But if that premium is received from a person who is not a client in any other sense is it intended that the rule should apply ? I suggest that it is very necessary in this and all similar cases that the rule should be adhered to, and that is why I am suggesting the additional principle that no money should be paid into the office account until it is the absolute property of the practitioner. Rule 4, which deals with withdrawals from a clients' account, is perfectly straightforward, but Rule 6 calls for very careful scrutiny. This Rule 6 sets out the circumstances in which it shall not be necessary for clients' moneys to be paid into a clients' account. Sub-sections (*b*) (*c*) (*d*) and (*f*) are certainly reasonable and necessary. Under sub-section (*a*), however, it is provided that clients' moneys need not be paid into the clients' account where " the client in writing authorises a solicitor to withhold (such moneys) from a clients' account." This surely is a great weakness and strikes at the root of the Act. The whole principle has been evolved largely for the purpose of protecting the ignorant and unsuspecting client, and one can well imagine that it will be in exactly such cases that a solicitor will be able to obtain without any difficulty an authority in writing to withhold the moneys from the clients' account. Many genuine reasons could be advanced for such a course, but if it is allowed it will be entirely contrary to the accounting principles involved and will defeat the very object of the Act.

Sub-section (*c*), however, provides that " money which is paid to a solicitor expressly on account of costs " need not be paid into the clients' account. This, I suggest, is not sufficiently precise. One can easily agree that payments to a solicitor for costs which are due should go straight to the office account, but where, as sometimes happens, the solicitor receives a payment covering in part costs in advance it is surely wrong that this should be treated at once as the solicitor's money. The rules will fail in their object unless the accounting principles are fully maintained, and under this provision and the provision of sub-section (*a*) the system may be reduced to a travesty of the real intention of the Act. I would insist that the balance sheet of a solicitor at any given date should clearly show that the credit balances on clients' accounts are included in the clients' bank account balance and that any excess in the client's banking account should only represent moneys belonging to the solicitor and specially placed there for opening or maintaining the account and that such excess should be shown separately on the balance sheet. This test, however, will be impossible of application in many cases if Rule 6 is passed in its present draft form.

It follows necessarily that any moneys paid on behalf of a client for whom the solicitor has no credit must be paid out of office account. He is obviously not entitled to use, in effect, the moneys of one client for payments on behalf of another client, and this is what he would actually be doing unless this principle is maintained. In regard to disbursements the accounting must become a little more complicated. In large practices there will be no insuperable difficulty about keeping two separate disbursement cash books, one being drawn from the clients' account for specific payments and debited directly to the particular clients, and the other disbursement book being fed by cheques drawn on office account, the payments being debited to clients in the ordinary way and the necessary adjustment cheque being drawn from client's account from time to time. Here, again, I would emphasise that moneys for general disbursements must be drawn from office account, and this will be necessary sometimes even where the solicitor may have moneys to the credit of the particular client for whom the disbursements are being made. In any case where a number of disbursements have to be made over, say, a couple of months, and the total amount of such disbursements may be small, it will probably prove an advantage to draw the money from office account and then at the end of each week or month to draw a cheque from the clients' account to be paid in to the office account for disbursements actually made on behalf of clients whose moneys are already in the clients' banking account. These adjustments cannot be described as simple, and it is here that the accounting knowledge will be specially required.

Rule 5 provides that the Council of the Law Society may call for inspection of any member's books of account. It must be noted particularly that the Council have power to act thereon on their own motion or on written complaint lodged with them, and they may appoint any person to make such inspection of books and to report to them on the result. This rule is probably a compromise between the conflicting views which have been expressed at meetings of the Law Society during the past two or three years when this subject has been under discussion. The Bill which was introduced into the House of Commons in 1931 by Sir John Withers provided that a solicitor should produce to the Law Society a certificate from a professional accountant showing that he had kept proper books, that he had complied with the provisions of the Act and that he had sufficient moneys in hand to meet the demands of his clients at the particular date. In other words it was desired to insist upon a compulsory audit in the case of all practising solicitors. We must frankly consider this suggestion, although opponents of the scheme naturally suggested that the chief result would be the enrichment of professional accountants. The position is not really dissimilar to the case of companies or to the case of single traders in so far as mere accuracy is concerned. The correctness of the accounts can only be certified after an independent investigation and qualified accountants are specially trained for the making of such investigations. The compulsory or quasi compulsory audit of practically all business accounts has been proved to be of inestimable advantage to the commercial community at large and the very growth of the accountancy profession during the past 60 years has in itself proved the value of the services they render. We can then eliminate the suggestion that the proposal would be solely in the interest of the accountancy profession. We can reasonably assume that an independent audit

would be an advantage in the case of all practising solicitors who are handling clients' moneys. That, however, is very different from insisting by statute upon a compulsory audit. Practically the only cases under our law where an audit is insisted upon are those of limited liability companies and other concerns of a similar nature which receive definite advantages under statutory law and which are using moneys subscribed by the general public. The case of solicitors is not analagous to these concerns, and I cannot help feeling that it would be a new departure in our legal system to endeavour to insist upon a compulsory audit in such cases. As we are all aware, the majority of solicitors already avail themselves of the services of professional accountants, and it might be unwise to alter the existing state of affairs. Rule 5 then appears to be a compromise between those who think a compulsory audit is essential and those who are opposed to the idea. The objection to the rule as drafted lies in the fact that there will be no regular information before the Law Society that its members are complying with the provisions laid down. They will have to set in motion special machinery before they can ascertain whether any particular individual is complying with the rules or not. It is interesting to note that the Council may act either on their own motion or on written complaint. That very strongly suggests that the Council have every intention of seeing that the rules are complied with and that they do not intend to wait until a complaint is made by a third party. It is well known in all professional bodies that third parties hesitate to make complaints before a disciplinary body because of the time and trouble involved. Abuse of the rule is to be prevented by the power given to the Council to require *prima facie* evidence that a ground of complaint exists and the payment of a reasonable sum to cover the expenses of the inspection.

III.—Application of the Principles to the Accountancy Profession.

It is undoubtedly true that the question of clients' moneys is of far greater importance in the legal profession than anywhere else, but at the same time it is probably equally true that every practising accountant is from time to time holding moneys belonging to other persons. In all insolvency, liquidation and receivership matters of any magnitude a separate special account is opened, but frequently under small deeds this course may not be essential. If, therefore, we believe this new system to be essential in the case of the legal practitioner it is difficult to find any reason why it should not be applied to our own profession. What has been done in the matter by the accountancy bodies? So far as our own Society is concerned a resolution was passed by the Council in January, 1931, to the following effect:—"That the Council of the Society of Incorporated Accountants and Auditors recommends all members to observe the current practice adopted by Incorporated Accountants of keeping the moneys of clients in a separate banking account exclusively used for the purpose." That resolution indicates that so far as the Council is aware the members generally adopt this practice, but there is no means of obtaining definite information on the point. It would probably not be safe to assume that the practice was universal.

So far as the Institute is concerned I cannot trace that any recommendation or instruction has been issued to its members on this point. It is, however, worthy of note that in a leading article on the new Solicitors Act which appeared in *The Accountant* on September 9th, 1933, the following paragraph appears:—

"Nobody imagines for one moment that the solicitors' profession contains a greater proportion of black sheep than any other calling, but the peculiar responsibility which is thrust upon solicitors brings occasional failures into prominence. Yet what is sauce for the goose is sauce for the gander, and we must admit that the strict accountability which is now enjoined by rule on solicitors ought, morally, to apply to other professional men whose duties often (if less frequently) include the receipt of trust money. Auctioneers and estate agents are a case in point, and, we must add in all fairness, it may be replied by them that accountants are another. That being so, if the Institute were to follow the example of the Law Society we do not think that accountants would complain."

I want to suggest that the Society should go further in the matter and make the keeping of separate accounts for clients' moneys compulsory on all its members. I doubt if the question is of sufficient importance to warrant the enormous trouble of a special Act of Parliament. It is, however, a matter which could fairly easily be brought within the scope of the Society's Articles in relation to disciplinary matters. Article 32 provides that the Disciplinary Committee may suspend any member who is proved to have been guilty of any act or conduct discreditable to a member, whilst Articles 33 to 35 deal with any member who may be accused of dishonourable conduct or conduct which would, in the absence of satisfactory explanation, be derogatory to the Society. I suggest that the failure to keep clients' moneys in a separate account should be considered discreditable on the part of a member and that a member so guilty should be brought within the disciplinary rules. I think it would be necessary, however, that the offence should be specifically set out in the Articles themselves. The matter is not entirely free from difficulty, and I am hoping that you will discuss this point quite frankly, particularly those of you who are in public practice, and state definitely if you see any objection to the proposals. I ought to state that the views I have expressed are purely personal and must not be looked upon as the considered opinion of the Council, of which I happen to be a member. Having regard to what we have said previously about the compulsory audit of solicitors' accounts, I think we must recognise that if an independent audit is essential in the case of solicitors it would be clearly essential in the case of practising accountants. The idea of two firms of accountants mutually agreeing to audit each other's accounts seems somewhat Gilbertian at first sight, although it is not really so. Accountants would surely be the last persons to argue against an independent audit of their own accounts. A difficult question would arise, however, as to whether such an audit should embrace only trust accounts. It is difficult, however, to see how such a line could be drawn, and it would probably prove to be necessary to make a complete audit. The idea of one firm of professional men opening all their books and accounts to another firm in the same profession obviously presents special difficulties and would not be very popular. Inasmuch, however, as I have expressed the opinion that a compulsory audit cannot be considered essential in the case of solicitors I need not argue the point further here.

QUESTION IN PARLIAMENT.

Economy Cuts.

CAPTAIN WATT asked the Financial Secretary to the Treasury what the cost to the Treasury would be if all the cuts imposed in 1931 were to be restored.

Mr. HORE-BELISHA: It is estimated that the cost of cancelling the reductions of remuneration made in 1931, and of increasing the rates of the unemployment benefit to the pre-1931 level, would be about £23,000,000 a year.

Society of Incorporated Accountants and Auditors.

MEMBERSHIP.

The following promotions in, and additions to the Membership of the Society have been completed since our last issue:—

ASSOCIATES TO FELLOWS.

BANKS, AMY MARIAN (George Gradon & Co.), 43, Gower Street, London, W.C.1, Practising Accountant.

BRADDY, CHARLES WILLIAM, F.C.A. (Ponsford, Braddy, and Co.), 87, Moorgate, London, E.C.2. Practising Accountant.

DUNCAN, DAVID CAMERON NEGUS (Duncan & Toplis), Barclay's Bank Chambers, Grantham, Practising Accountant.

EDWARDS, CYRIL EIRWYN, Bank Buildings, Aberdare, Practising Accountant.

ELVERSTONE, LESLIE FREEMAN, Temple Chambers, Coalville, nr. Leicester, Practising Accountant.

JENNINGS, REGINALD CLAUDE, Borough Treasurer of Gillingham, 13, Balmoral Road, Gillingham,

LONGHURST, ERNEST WALTER (E. W. Longhurst & Co.), Portland House, 73, Basinghall Street, London, E.C.2, Practising Accountant.

NICHOLS, HENRY THOMAS PERCIVAL, 77, Chandos Road, Stratford, London, E.15, Practising Accountant.

OLVER, HENRY VYVYAN, 67-68, Scottish Provident Buildings, Belfast, Practising Accountant.

RUSCOE, BERTIE, (Dyke & Ruscoe), The Old Mansion, St. Mary's Street, Shrewsbury, Practising Accountant.

FELLOW.

HULL, WILLIAM JOHN, Borough Accountant of Northampton, Northampton.

ASSOCIATES.

ASHILL, MAURICE COMBER, Clerk to W. L. Flemington, 144, Acre Lane, Brixton, London, S.W.2.

BARNET, JOHN HOWARD, Clerk to Cole, Dickin & Hills, 18, Essex Street, Strand, London, W.C.2.

BENTON, GEORGE EDWIN, Clerk to Charles Turner & Co., 155, Norfolk Street, Sheffield.

BOULTON, KENNETH, Clerk to Harry Cunningham & Co., King's Chambers, Angel Street, Sheffield.

BROWN, ALEC, Clerk to Collinge & Halstead, St. Mary's Chambers, Fleet Street, Bury.

CHUBB, GEOFFREY WALTER ASHTON, 30, St. Marks Road, East London, South Africa (formerly articled clerk).

FRANCKS, ROYDEN HARRY, Clerk to Alfred G. Deacon and Co., 4, Horsefair Street, Leicester.

GOULD, ERNEST, Clerk to Baxter, Bennett, Bowyer and Co., 57-60, Holborn Viaduct, London, E.C.1.

GRIFFITHS, NORMAN (E. B. Griffiths & Co.), 152, Lord Street, Southport, Practising Accountant.

HILL, DONALD BURNETT, Clerk to Storey, Hill & Co., Oxford Chambers, 12, St. Stephens Street, Bristol 1.

HOFMANN, WALTER SIDNEY, Clerk to Townsend, Watson and Stone, 16, Weston Park, Crouch End, London, N.8.

KNOX, EDWARD WELBURN (R. H. Seeger), 10, Piccadilly, Bradford, Practising Accountant.

LAWRANCE, HOWARD GEORGE, Clerk to R. H. Munro, 2, Thames House, Queen Street Place, London, E.C.4.

LEGGE, NORAH BEAUMONT (née Millner), Delamere, Newbridge Av., Wolverhampton (formerly articled clerk).

LIBSON, NYMAN, 6, Laurence Pountney Hill, London, E.C.4. Practising Accountant.

MADDOX, DAVID RUTHVEN, Clerk to J. Dix Lewis, Cæsar and Co., Kennans House, Cheapside, London, E.C.2.

PICKEN, GORDON WEST, Clerk to Gwynne & Ross, Walker Street Chambers, Wellington, Shropshire.

PURSLOW, JOHN HAYDN, Clerk to Ridsdale, Cozens and Co., Midland Bank Chambers, Walsall.

RAO, AVASARALA SESHAGIRI, M.A., formerly clerk to M. K. Dandeker & Co., 8, Sunkarama Chetty Street, George Town, Madras.

REANEY, NORMAN ROBERT, Clerk to A. Cropp Hawkins and Co,. Portland House, Church St., Stoke-on-Trent.

RIMINGTON, THOMAS GEOFFREY, Clerk to T. Rimington and Co., 8, Horsefair Street, Leicester.

ROBERTS, ROBERT KENNETH, Clerk to Wheatley, Pearce and Co., 102, High Street, Poole.

ROBINSON, EVANS CAPELL, Clerk to L. E. Stewart, Waters and Co., 22, Marefair, Northampton.

ROOD, LEON MAURITZ, Clerk to E. R. Syfret & Co., P.O. Box 206, Cape Town, South Africa.

SANDLER, KALIE, B.A., B.Com., Clerk to K. White and Co., Court Chambers, Keerom Street, Cape Town, South Africa.

STANSFIELD, FRANK, Clerk to Clarke, Clarkson and Howarth, 14, Winckley Square, Preston.

THORNTON, JAMES, Clerk to Clarke, Clarkson & Howarth, 14, Winckley Square, Preston.

TURNER, PERCY, Clerk to Alfred Nixon, Son & Turner, 31, Victoria Buildings, St. Mary's Gate, Manchester.

TYDEMAN, WALTER EDMUND (W. E. Tydeman & Co.), Fulwood House, Fulwood Place, London, W.C.1, Practising Accountant.

WIGGIN, ARTHUR LESLIE, Accountant at J. & J. Wiggin, Ltd., Bloxwich, Staffs. (formerly Clerk to A. & E. Law & Co., Walsall).

WILSON, GEORGE EDMUND, Clerk to John Naylor, 19, Richmond Terrace, Blackburn.

INCORPORATED ACCOUNTANTS AS MUNICIPAL COUNCILLORS.

Mr. S. Grave Morris, F.S.A.A., London, has been elected a member of the Court of Common Council for the Castle Baynard Ward.

Mr. Fred Woolley, J.P., F.S.A.A., has been elected an Alderman of Southampton, after having occupied the position of Mayor for two years.

At the municipal elections held in the provinces last month, the following Incorporated Accountants were returned:—

Mr. H. Harper-Smith, J.P., F.S.A.A., and Mr. H. O. Bennett, F.S.A.A., were returned unopposed to the Norwich City Council.

Mr. W. H. Charles, F.S.A.A., was elected for Ward No. 2, Llanelly.

Mr. H. Cunningham, A.S.A.A., was elected for the Heeley Ward, Sheffield, with a majority of 174.

Mr. A. E. Pugh, F.S.A.A., was elected for the St. Julian's Ward, Newport, Mon., by a majority of 348.

Mr. P. E. Robathan, F.S.A.A., was elected for the Maindee Ward, Newport, Mon., by a majority of 395.

Mr. G. H. Walpole, A.S.A.A., was elected for the Regency Ward, Brighton, by a majority of 18.

Mr. R. Simpson Duthie, F.S.A.A., was unsuccessful in contesting the Greystone Ward of Carlisle.

Methods of Fraud.

A LECTURE delivered to the Liverpool Chartered Accountant Students' Association by

MR. SYDNEY M. CALDWELL, A.C.A.

Mr. CALDWELL said : The annals of fraud contain many interesting cases, and I have thought that a knowledge of the different methods by which fraud is carried out may be of assistance to the profession in preventing a recurrence of the notable frauds of the past. Fraud embraces an extremely wide field, and I must, of course, deal chiefly with fraud as applied to accounts and commerce. I propose to sub-divide fraud under three headings.

1. Defalcations involving the misappropriation of cash, stock or other assets.

2. Fraudulent manipulation of the accounts of a business without *direct* misappropriation of assets.

3. Those frauds which, although unconnected with accountancy as such, are of interest to the profession.

We have got to remember that any fraud is usually designed with the primary object of bringing some financial benefit to the originator of it. The result is, under any of the above headings, much the same ; that is to say, the defrauder makes something at the expense of the business. It is the methods by which he attempts to cover up his frauds which I am going to analyse.

The first system, that of misappropriation of assets, may be worked in various ways, according to the type of asset to be misappropriated. Cash is, of course, the most favoured asset for this purpose, the method of misappropriation being either to enter on the debit side less cash than has actually been received, or to enter on the credit side more cash than has actually been expended.

Misappropriation of receipts may be covered up by entering on the counterfoil receipt a smaller amount of cash, entering a corresponding figure in the cash book and crediting such amount to the customers' account in the ledger in the usual way. The deficiency is then made good by passing a false credit to the customers' account, so enabling it to balance. The auditor should guard against this type of fraud by making quite sure that all credit notes are properly authorised by some responsible official who has nothing to do with the receipt or payment of cash.

False expenditure of cash may be covered up in a variety of ways, wages being a very useful item for this purpose. Some years ago the Mersey Dock and Harbour Board were the victims of a very ingenious fraud, in which the foreman of a gang of dock labourers, a cashier in the office, and a clerk participated. The Dock Board's system was that the wages sheets were made up in the office, checked, and cash paid by the cashier in the presence of a responsible official from the Dock Board, whose duty it was to see that every pay envelope was claimed by a workman. This was thought to be fraud-proof, but the conspirators hit on the idea of inserting false names in the wages sheets and hoodwinked the responsible official by hiring dockside loafers to come up to the pay office and collect the corresponding pay envelopes. These envelopes were afterwards recovered by the conspirators, probably in exchange for a pint of beer, and the net proceeds divided among the three men. Such a fraud is extremely difficult to detect, and this one only came to light because one of the three became panic-stricken and confessed his share in the fraud. The professional auditor could not, I think, be held guilty of negligence if he failed to detect such an ingenious fraud, since he is entitled to rely on trusted officials of a company.

A recent case which came up for trial at the Liverpool Assizes illustrates another type of wages fraud—the old dodge of overcasting the wages book. The method is, briefly, to overcast the wages book by, say, £2, draw a cheque for this false total, pay the wages in the ordinary way and keep the surplus cash resulting from the overcasting of the total. In this Liverpool case, the audit clerk was privy to the fraud and ticked the additions as correct, receiving as reward a proportion of the misappropriated cash. This case illustrates the danger of allowing a clerk to become too friendly with a client's staff, and it is advisable to change the clerks on an audit from time to time.

Another method of covering up false expenditure is the alteration of vouchers for payments, usually by the insertion of the figure 1 in front of an existing figure, the excess being transferred from the firm's cash box to the cashier's pocket. This is rather crude, and any auditor who " keeps his eyes skinned " should notice the alteration, unless, of course, the cashier is a past master in the art of forgery.

An auditor should always be on his guard in cases where the balance of cash in hand seems unnecessarily large for the business, since it is possible that, for the major portion of the year, some of this balance may be in the cashier's pocket, instead of in the firm's cash box. In the case of the *London Oil Storage Co.* v. *Seear, Hasluck and Co.*, where auditors were sued for negligence, it was shown that the balance of cash in hand as per the cash book was about £700, but in fact the actual cash balance was only £30, the difference having been misappropriated by the secretary, who wrote up the cash book. The auditors' clerk did not count the cash in hand, but merely referred to the cash book to see that the amount there agreed with the amount shown in the balance sheet. The auditor was held to be guilty of negligence, but the jury awarded the plaintiffs only £5 5s. damages, being of the opinion that the directors had been guilty of gross negligence in allowing such a large balance of cash to be retained. It is an auditor's plain duty to count the cash in hand, no matter whether the balance be large or small, and as a practical point it is advisable when attending the client's premises for this purpose to count the actual cash first and to consult the cash book afterwards, since if the cash book is consulted first this would give the fraudulent cashier a few minutes to borrow sufficient money to cover up his deficiency.

The case of the *Astrachan Steamship Co., Ltd., and others* v. *Harmood Banner & Son*, was rather more subtle. The plaintiffs were an associated group of separate companies each owning one ship, and Harmood Banner's did the audit of all the companies. These companies shared a common office and the same staff. The auditors completed the audit of company No. 1, and agreed the cash in hand with the cash book of that company. They then proceeded to do the audit of company No. 2, and counted their cash in hand. This went on until the audits of the group had been completed. Actually, what had happened was that the same cash had been presented to the auditors for counting time after time, only one cash balance being in existence instead of several, the remainder having been misappropriated by the cashier. The action was ultimately settled out of Court in favour of the plaintiffs, and it would therefore seem to be the duty of the auditor in such a case to count all cash balances at the same time.

Different crooks have different methods, and one method much favoured by those who have the custody of money at their home is to dip their hands into the cash box and then to stage a faked robbery by breaking a few

windows and turning out the contents of a desk on to the floor, with other artistic details to make it appear as if a common thief had been at work. This method has been tried by treasurers of slate clubs, collecting agents of insurance companies, branch secretaries of trade unions and similar gentry. They have, however, not met with any great success. Cases of this sort appear now and again at the local police courts, an indication that somebody has been caught working the old trick again.

One well known accountant, telling of various frauds which he had been called in to investigate, found when engaged on the accounts of a firm of stockbrokers that the amounts charged against profits in respect of contract stamps and fees seemed rather heavy. In the ordinary course these charges are payable by the client, but in the rush of business it sometimes happens that mistakes are made, and it is hardly worth while risking the good will of a client by asking him for a few shillings which should have been charged to him at some previous date, and a small debit to profit and loss account is to be expected now and then. The fees clerk had taken advantage of this and commenced with the comparatively modest plan of putting through his books an occasional 2s. 6d. for a registration fee not in fact payable and pocketing the money. He soon became bolder and went for it in a wholesale way, charging stamp duties on bearer bond transactions, entering debits for the same transaction twice and the like. In a few weeks he had obtained the best part of £200. The fraud would never have been discovered at all if it had not been that a boom period on the Stock Exchange necessitated the firm of stockbrokers requesting their accountants to assist in writing up the books.

Fictitious purchases have also been used to cover up misappropriations. The method is for the clerk or cashier of a business to persuade a person who regularly supplies goods to the business to send in invoices for fictitious purchases. These are paid by the fraudulent cashier and a receipt obtained for the money. The amount so obtained is then divided between the cashier and the tradesman. Such a fraud may be checked by a proper system of having all invoices passed for payment and initialled by some responsible official. This type of fraud has been practised by clerks in the employ of various municipal corporations and other public bodies.

The case of the *City Equitable Fire Insurance Co., Ltd.*, whose chairman was Gerard Lee Bevan, has some of the elements of misappropriation of cash and some elements of the manipulation of accounts. Bevan, who was sentenced to seven years penal servitude for his sins, was also the senior partner of Ellis & Co., the stockbrokers to the company, who were at all material times heavily indebted to the City Equitable. Bevan resorted to the process of "window dressing," and much larger sums of money belonging to the City Equitable Co. were in the hands of Ellis & Co. at the date of each balance sheet than was shown by the City Equitable's books. This operation was effected by the nominal purchase of Treasury Bonds by Ellis & Co. immediately before, and a nominal re-sale immediately after the date of each balance sheet. In fact these securities were never in the hands of Ellis and Co., but were retained by the sellers as security for loans against them to Ellis & Co. Bought and sold notes were issued for these transactions by Ellis & Co., who also certified that they held the securities at the date of the balance sheet, and this certificate was accepted by the company's auditors. The trouble was that Ellis & Co. had pledged the City Equitable's securities to their own private creditors. The auditors of the City Equitable Co. were subsequently sued for negligence, and the remarks of Mr. Justice Romer on the subject of the inspection of securities are of importance. In the course of his judgment, he said "An auditor is not in my judgment ever justified in omitting to make personal inspection of securities that are in the custody of a person or company with whom it is not proper that they should be left. Whenever such personal inspection is practicable, and whenever an auditor discovers that securities of the company are not in proper custody, it is his duty to require that the matter be put right at once, or, if his requirement be not complied with, to report the fact to the shareholders, and this whether he can or cannot make a personal inspection. The securities, retained in the hands of Ellis & Co. for periods long beyond the few hours in which securities must necessarily be from time to time in the possession of the company's stockbrokers, were not in proper custody. That Ellis & Co. were at all material times regarded, and reasonably regarded, by Mr. Lepine, (the auditor), as a firm of the highest integrity and financial standing, is not to the point. A company's brokers are not the proper people to have the custody of its securities, however respectable and responsible those brokers may be. There are of course occasions when, for short periods, securities must of necessity be left with the brokers, but the moment the necessity ceases the securities should be lodged in the company's strong-room or with its bank, or placed in other proper and usual safe keeping. In my judgment, not only did Mr. Lepine commit a breach of his duty in accepting, as he did from time to time, the certificate of Ellis & Co., that they held large blocks of the company's securities, but he also committed a breach of his duty in not either insisting upon those securities being put in proper custody or in reporting the matter to the shareholders. This was negligence. . . ."

Attempts have also been made to cover up the improper pledging of securities by producing to the auditor only part of the firm's securities for his inspection, then when he has inspected these the fraudulent official attempted to persuade the auditor to go for his lunch, promising to have the rest of the securities ready for him when he returned, the idea being that whilst the auditor was away, the official could take the securities already inspected and exchange them for those improperly pledged, and when the auditor returned from his lunch he was to find the rest of the securities waiting for him. The scheme broke down because the auditor refused to go for his lunch until he had finished the inspection of the securities and the whole fraud came to light. The amount borrowed on the strength of the securities had, of course, been misappropriated by the official.

Turning now from direct misappropriation of assets to the manipulation of accounts, the motive for manipulation is to overstate the profits of the business. This may be done for a variety of reasons, for instance, to keep up the price of the shares on the Stock Exchange, or to ensure that creditors, seeing the business to be profitable, will not press for payment. If the managing director, manager or other high official gets a commission on the profits as part of his remuneration, there is always the risk that he may manipulate the accounts and so draw his commission on inflated profits. The vendor of a business may also be tempted to inflate the profits so as to obtain an enhanced price.

Profits may be inflated in a variety of ways, either by increasing items on the credit side, such as sales or closing stock, or else by decreasing items on the debit side, such as purchases or expenses. Inflation of sales was resorted to by Mr. Brandreth, the chairman of the Ner-Sag Co., and of its subsidiary, Ner-Sag (Overseas), Ltd. The method was to put through the books of the Ner-Sag fictitious sales

of spring mattresses to Ner-Sag (Overseas), Ltd., resulting in an enormous profit to the Ner-Sag Company. A set of unaudited accounts was published on this basis, as a result of which the Ner-Sag Company's 10s. shares shot up on the Stock Exchange to over £5. Mr. Brandreth sold out his holding in the Ner-Sag Co. at a very handsome profit, but he overlooked the fact that sect. 84 of the Larceny Act, 1861, makes it an offence for a director of a company to publish or circulate any written statement or account, knowing it to be false in any material particular, with intent to defraud any member, shareholder or creditor. This trifling oversight cost him a term of penal servitude.

Inflation of the value of stock was resorted to by a high official of the *Kingston Cotton Mill*. Stock inflation is a snowball scheme, since the closing stock of one period is the opening stock of the next, and while the first period in which inflation takes place will reap the benefit, the next financial period will be correspondingly handicapped. If the profits are to be overstated in subsequent years, it follows that the closing stock must be overstated, not only by the original amount but by an additional amount by which it is desired to overstate subsequent profits. The auditors of the Kingston Cotton Mill were subsequently sued for negligence, but it was held that the auditor is entitled to accept the certificate of a responsible official of the company as to the valuation of stock. This was confirmed in the later case of *Henry Squire, Cash Chemist, Ltd.*, v. *Ball, Baker & Co.*, where it was held that the auditor could accept the stock certificate from a responsible official even though, if the auditor had compared the stock figure with that of previous years, his suspicions would probably have been aroused.

Purchases were overstated in the case of the *Irish Woollen Co.*, the method being to hold over purchase invoices for the last few weeks of the financial period and to put them through in the succeeding period. Such a scheme is, like the inflation of stock, of a snowball nature, the trading result of the succeeding period being prejudiced by debiting last year's purchases. The auditors were held guilty of negligence, since they had not noticed when auditing the account of the succeeding period that some of the invoices bore last year's date. Moral : Always look at the date of an invoice !

The case of *Whittaker Wright and The London Globe Finance Corporation, Ltd.*, caused quite a sensation when it came up for trial. The company was formed, according to its Memorandum of Association, " to engage in all kinds of financial operations," and in the light of subsequent events this object was certainly carried out. The company was an amalgamation of two existing companies, each with a capital of £195,000 in ordinary shares and £5,000 in deferred shares. The London Globe Company issued paid-up shares of £1,600,000 in exchange for £400,000 total paid up capital of these two companies. Of this amount £990,000 was issued to the ordinary shareholders of the old company in exchange for their previous holding of £390,000. and £610,000 was issued to the holders of deferred shares. The deferred shares in the two old companies had been issued to Mr. Whittaker Wright in consideration of promotion services and for options on certain mining rights. The result of the formation of the London Globe Co. was that Mr. Whittaker Wright converted his old deferred shares into shares in the new company worth sixty-one times the value of his original holding. The financial operations were entirely in the hands of Mr. Whittaker Wright. Subsequently, as an illustration of the type of transaction entered into, the London Globe Co. promoted the British America Corporation, Ltd., receiving £500,000 in paid-up shares in exchange for certain rights which the London Globe Co. had themselves purchased thirteen days earlier for £100,000. The result was that the London Globe Co. took credit for a profit of £400,000. The property transferred consisted merely of options, no substantial assets passing. This transaction was only one of a series, and when the crash came it was found that £5,000,000 worth of capital subscribed by the public had been lost, in addition to liabilities to creditors of something like £3,000,000. The frauds were covered up for a time by making up the balance sheets of the various companies at different dates, the cash at bank being increased by cheques being received from the other companies a day or two previous to the date of the balance sheet, these cheques being shown as cash at bank in the balance sheet of the receiving company. Immediately the date of the balance sheet had passed the transaction was reversed. A similar procedure was adopted at the date of the balance sheet of each of the other companies. It was only a matter of time before such gigantic manipulations came to light, and as a result Mr. Whittaker Wright was indicted on twenty-six counts, and after a trial lasting several days he was found guilty on all counts and sentenced to seven years penal servitude, the maximum penalty provided by the Larceny Act, 1861.

Another example of falsification of accounts is provided by the *Farrow's Bank* case, where balance sheets and accounts were published and advertised every year, being certified by the auditors with a clean audit certificate. The position of the bank was falsely shown as being in a state of continuous prosperity, large fictitious profits being shown as a result of the bank's trading. Actually the only year to show a profit was the first year, and after that time the true position of the bank became steadily worse. By means of these false published accounts the public were induced to entrust money to the bank.

An interesting case within my knowledge which happened in Liverpool and which involved the falsification of the accounts of the business, had for its motive the defrauding of the Commissioners of Inland Revenue. The business was that of a fruit importer, of which Mr. X. was the sole proprietor. The business consisted of selling shipments of fruit from Spain and the Canary Islands on a consignment basis. When a shipment was sold an account sales was made out and an ordinary cheque (not a banker's draft) remitted for the net proceeds. Under the system of book-keeping these consignments were entered up as purchases. When the audit was started the auditors proceeded to vouch the purchase journal with the account sales, and after checking the cash book with the bank pass book, asked for the paid cheques as vouchers, since it is a physical impossibility to get a receipt from a Spaniard. Mr. X. said, " Oh, I can't be bothered to get the cheques from the bank ; surely the name on the payment side of the pass book could be compared with the credit side of the cash book and that ought to be enough evidence of payment for anybody." The auditors, however, insisted, and after a great deal of trouble got Mr. X.'s permission to get the paid cheques from the bank. When the cheques were vouched with the cash book, they found that some of these cheques, made payable to Don José So-and-So or Alvarado What's-His-Name, bore in the corner the words : " Please pay cash to bearer " and the initials of Mr. X. On enquiry being made it was found that some fictitious account sales had been made out, purporting to record transactions with fruit growers with whom Mr. X. habitually dealt. The cheques had been made out by Mr. X. in favour of these Spaniards, and he had then written the words : " Please pay cash to bearer " across the face of them, and taken the cheques round to the bank and collected the money himself. The cheques had

been entered up by the bank in the pass book as having, been paid to the payees named thereon, *i.e.*, Don Jose So-and-So, Alvarado What's-His-Name, &c. There was no question of the business having been defrauded since Mr. X. was the sole proprietor, but the net effect would have been to have charged up the proprietor's drawings as purchases, so reducing the profits of the business assessable to income tax. The auditors fortunately discovered these manipulations the first year they were started and charged the amount involved to Mr. X.'s drawings account and not to purchases. Incidentally, Mr. X. received a rather severe lecture from his auditor and promised to be a good boy in the future. The accounts which were later submitted to the Inspector of Taxes showed the true position, and the Inland Revenue are not aware to this day how near a certain citizen came to defrauding them.

Another case which attracted great attention was heard at the Liverpool Assizes recently, under the name of *Dunford* v. *W. F. Exbank & Co.* Here Dunford had concealed certain moneys from the defendants, a well known Liverpool firm of Chartered Accountants, with the result that certain income was not disclosed to the Inland Revenue. This concealment of income is a common method of defrauding the Inland Revenue and is extremely difficult to detect. The Inland Revenue eventually discovered these omissions and Dunford had to pay £12,000 arrears of income tax and penalties. This action at the Assizes alleged negligence against the auditors for not having discovered the concealment themselves, thereby saving Dunford from paying penalties. The plaintiff did not recover damages.

The third and most interesting group of frauds contains many well known cases. A fraud on the Bank of Liverpool perpetrated by a clerk in their employ named Goudie was most ingenious. Goudie was a ledger clerk getting a salary of £150 per annum, and commenced the fraud in 1899 and managed to conceal it until November, 1901. He was in charge of the H to K ledger. He forged cheques on the accounts of customers in his ledger, commencing with a comparatively modest sum of £100, gradually becoming bolder and increasing the amounts. He took these forged cheques to different banks and had them credited to various accounts which he kept there. The cheques passed through the bankers' clearing in the usual way and Goudie debited them to the proper accounts in his ledger, covering up his activities by means of suspense accounts in the ledger, transfers from one customer's account to another, falsifications of pass books and similar devices which only an "inside" man could have used. Eventually Lloyd's Bank became suspicious and inquiries were set on foot. It was found that Goudie had misappropriated altogether about £170,000, and he was tried and sentenced to ten years penal servitude. The auditors escaped responsibility for not having discovered the frauds, since it was found that the bank's system of keeping their accounts was far from satisfactory. Needless to say the system of internal check was later overhauled and re-organised.

Talking of banks brings to mind the case of the man who opened a banking account with a comparatively modest sum and gradually built up his credit balance over a period until it stood at several thousand pounds. His references (forged) and general respectability seemed to be unquestionable. One day he went in and asked to see the manager, and explained to him that he was about to conclude an important deal with a very influential business man. He informed the manager that this deal involved the payment of a large sum of money and that he was going to give an *open* cheque for several thousand pounds (slightly less than the balance standing to his credit at the bank) in favour of an elderly gentleman with a beard, who would probably present the cheque for payment about 11 o'clock the following morning. He impressed on the manager that he would like this cheque to be paid in cash over the counter without any hesitation on the part of the teller, as the gentleman with the beard might have doubts as to his financial standing if the teller went to consult the ledger before paying the cheque. The manager agreed to have all the tellers informed of the balance standing to his credit on the opening of business on the following morning. About 11 o'clock next morning, when the bank was full of people, several elderly gentlemen, each complete with beard, walked into the bank by different doors and presented open cheques for large amounts drawn on our friend's account. Each of these cheques was paid without hesitation by different tellers, who of course thought, "Ah, here is Mr. So-and-So's eccentric friend come to collect his money." The result was that Mr. So-and-So's account was so seriously overdrawn after all these cheques had been paid that he and his accomplices were never heard of again.

Another gentleman who considered banks to be easy game opened an account with a very small amount and after various small amounts had been paid in and withdrawn, got down to business. He paid in at one end of the bank counter a large amount in notes, while at the other end of the counter a few minutes later, his accomplice presented an open cheque for a similar amount. The teller to whom the cheque was presented went to consult the ledger and found only a small balance standing to the credit of the account, since the cash which had just been paid in had not been credited. Payment of the cheque was refused and the customer waxed very indignant at this and eventually obtained substantial compensation from the bank for damage to his financial reputation!

The last examples of fraud, to which I have given the rather paradoxical name of "genuine forgeries," are the *Hatry* case and the Marang frauds on the Bank of Portugal. The methods employed in these two cases were much the same. Hatry, through his company, Corporation and General Securities, Ltd., was entrusted with the issue to the public of perfectly genuine loans on behalf of various municipal corporations. He also had charge of the issue of the scrip certificates to the subscribers. He ordered an excessive supply of these certificates from the printer and affixed the Corporation's seal, of which he had possession, to these surplus certificates. He then proceeded to sell on the Stock Exchange blocks of these Corporation loans, delivering to the purchasers the certificates which he had prepared. These certificates could hardly be described as forgeries, since they were printed from the same plates as the certificates issued to bona fide bond-holders. The amount involved ran into millions of pounds and a financial crisis of the first magnitude was only averted by the Stock Exchange opening a fund to compensate the holders of these unauthorised certificates for their loss. Hatry, together with his accomplices, was tried at the Old Bailey and sentenced to 14 years penal servitude.

In the *Bank of Portugal* case, a man named Marang called on Messrs. Waterlow, of London, the official printers to the Bank of Portugal, and after producing forged letters of introduction, persuaded them to print a series of "Vasco da Gama" bank-notes, using the Bank of Portugal's plates which were in their possession. These notes were taken to Portugal and put into circulation, principally through a bank which Marang and his accomplices had promoted for the purpose. The fraud was discovered

through the police finding out that a certain shopkeeper (an accomplice of Marang's) always seemed to have a supply of brand new "Vasca da Gama" notes. The value of the notes actually issued to the Portuguese public by Marang was over one million pounds sterling. When the frauds eventually came to light, something like a panic reigned in Portugal, and the Bank of Portugal took the very wise step of honouring all "Vasco da Gama" notes, genuine and spurious, by calling them all in and issuing in exchange fresh notes of a different design. Subsequently the Bank of Portugal took an action for negligence against Messrs. Waterlow and, after the case had gone to the House of Lords, recovered damages of over £600,000.

There are many more types of fraud of one sort and another with which I have not time to deal, but I hope that this outline of some of the more ingenious cases will impress on you, as auditors, that things are not always what they seem and that a little inquiry never did any harm.

Correspondence.

BANK'S PREFERENTIAL CLAIM.

To the Editors *Incorporated Accountants' Journal.*

SIRS,—I have been acting as liquidator in a creditors' winding-up, under which the bank have a very considerable claim. Early in April this year I received an intimation from the bank that they considered a large proportion of their claim was to be treated as preferential under section 264 (3) of the Companies Act.

If they had succeeded in this contention, the dividend to the unsecured creditors would have been very small, but I was of the opinion that their claim was not well founded, on the ground that the weekly cheques drawn "Pay Selves" were cashed without inquiry by the bank teller, and dealt with in the ordinary way.

Backed by a strong committee of inspection, I took the opinion of an eminent K.C., who had the whole of the facts placed before him, and he stated that in his opinion the bank had no grounds for such a claim. A considerable amount of correspondence has passed, and several interviews have taken place since then, but to-day I have received a letter from the bank's solicitors informing me that :—

> ". . . they do not propose to proceed with their preferential claim in the winding-up, and that, therefore the liquidator may proceed with the distribution of the estate without regard to their preferential claim, which is hereby withdrawn."

I understand that sometimes liquidators have not thought the point worth fighting, but in this particular case there was a considerable amount at stake.

Of course, it must be understood that each particular case must be treated on its merits, and if the bank have definitely made inquiries as to the use to which the cheques are going to be put, the claim may be good.

You are at liberty to make such use of this information as you think fit for the benefit of my professional brethren.

Yours faithfully,

Bradford. C. E. CLARIDGE.

November, 1933.

UNEMPLOYMENT BILL.

This Bill has been introduced into Parliament and is now coming up for second reading. It is a long document, extending to 56 sections and eight schedules, and consists of three parts. The following is a brief summary of its main provisions :—

PART I.

Age of entry into Insurance.—The age for entry into insurance is reduced from 16 to the school leaving age for the time being in force (which at present is generally 14). The weekly contributions for persons under 16 will be : employer 2d., employed 2d. and Exchequer 2d. It is estimated that this will involve an additional charge to the Exchequer of £253,000 per annum.

Benefits.—The benefits will remain as at present, but—

(*a*) Will begin at 16 instead of 16½.

(*b*) Dependants benefit of 2s. per week will be payable in respect of persons between the ages of 14 and 16.

(*c*) The maximum period of benefit remains at 26 weeks in any year, but persons who have been five years insured may draw an extra six days benefit for every 10 contributions paid in the five years preceding.

Courses of Instruction.—Instructional courses for unemployed or partly employed persons under 18 years of age must be provided by education authorities and attendance at such courses is to be made compulsory. Power is also given to the Minister to provide training courses for persons over 18 years of age.

Unemployment Insurance Statutory Committee.—This Committee is to consist of a Chairman and not less than three nor more than five members appointed by the Minister. The duties of the Committee will be :—

(1) To advise and assist the Minister ;

(2) To prepare an annual report and make recommendations for dealing with surplus or deficit ; and

(3) To make any recommendations for changes in the scheme which they may consider necessary for financial reasons either for meeting a deficit or dealing with a surplus and for the insurance of agriculture against unemployment.

Redemption of Unemployment Fund Debt.—For the purpose of redeeming the unemployment fund debt, half-yearly instalments of £2,750,000 are to be paid to the Exchequer from the Insurance Fund, the outstanding balance of the debt to carry interest at the rate of 3½ per cent. The period required to complete the repayment will be approximately 40 years. (The present debt is about £115,000,000.)

PART II.

Unemployment Assistance Board.—A Board under this title is to be set up consisting of a Chairman, Deputy Chairman and not less than one nor more than four other persons appointed by Royal Warrant. No member of this Board shall be a member of Parliament.

The Board will take over all responsibility for persons between the ages of 16 and 65 whose normal occupation is employment in respect of which contributions are payable under the Widows', Orphans' and Old Age Contributory Pensions Acts, or who can show that, not having had any remunerative occupation, they might have expected to have had insurable employment but

for the industrial circumstances of the district in which they reside, and who are capable of and available for work. Persons who are disqualified for benefit under the Unemployment Insurance Acts owing to having lost employment by reason of a stoppage of work which was due to a trade dispute, or would have been so disqualified if they had been insured contributors, are excluded from the scope of the Board for the period of the disqualification.

As regards assessment of need, regulations will be approved by Parliament, but the Minister of Labour will not be responsible for decisions of the Board.

The cost of the scheme will be a national charge, but local authorities for five years will be required to pay three-fifths of the cost of relief and relief administration taken over under the scheme.

Allowances will be payable by the Board to any person who has proved—

(*a*) That he is registered for employment in the prescribed manner; and

(*b*) That he has no work or insufficient part-time work for his needs; and

(*c*) That he is in actual need of an allowance.

The expression "needs" is not to include medical needs, and in assessing needs, the following are to be ignored:—

(1) The first five shillings of the applicant's sick pay from a friendly society and the first 7s. 6d. of his health insurance benefit.

(2) One-half of his wound or disability pension or workmen's compensation payment.

(3) The first £25 of his capital (his capital in excess of £25 up to £300 is to be treated as a weekly income of 1s. for every complete £25).

(4) The capital value of any interest in the dwelling house in which he resides.

The Board may make provision for training courses to maintain fitness for employment.

PART III.

This part of the Bill deals with Transitory Provisions and provides that Part II of the Bill as regards the grant of allowances will come into force on an appointed day, which, it is anticipated, will not be until after June 30th, 1934. The present provision of transitional payments which would normally expire on June 30th, 1934, are accordingly to be extended so as to continue until the new scheme comes into force.

PUBLIC SCHOOLS CAREERS ASSOCIATION.

The annual report of the Public Schools Careers Association for the year 1933 deals with the aims, objects and scope of its work. It is pointed out that so many applications for help and advice are received from boys' parents that it is necessary to explain that the Association does not undertake to find work for individual boys, although a post has been found for a boy now and again. Its main purpose is to explore the situation and to keep careers masters in touch with one another and with the world of employment. The Association has concentrated on investigating the general question of employment of boys leaving public schools at the age of 18 or 19, and for this purpose contact has been maintained between the schools and a number of the larger firms, either by holding meetings at the invitation of the firms or by inviting directors and managers to be present at the meetings.

Reviews.

Oldham's Guide to Company Secretarial Work. *Sixth Edition. By G. K. Bucknall, A.C.I.S. (Hons.). London: Sir Isaac Pitman & Sons, Ltd., Parker Street, Kingsway, W.C.* (244 *pp. Price* 3*s.* 6*d. net.*)

This is a useful little book dealing with the day to day work which falls to the lot of a secretary of a limited company. It is especially useful on account of the number of forms and rulings of which specimens are given dealing with the allotment, issue and transfer of shares, call letters, declarations and other statements required in connection with the affairs of joint stock companies.

The Law of Income Tax. *Sixth Edition. By E. M. Konstam, K.C. London: Stevens & Sons, Ltd., and Sweet & Maxwell, Ltd., Chancery Lane, W.C.2.* (720 *pp. Price* 42*s. net.*)

The object of the present edition is to bring the work up to date, several Finance Acts having been passed and numerous legal decisions of importance given since the previous edition was issued. The book is a comprehensive one dealing with the whole range of Income Tax and Sur-tax. It is written in narrative form, under appropriate subject headings, and references to cases and statutes are given in support of the views which are expressed. At the same time the author frequently gives his own opinion in criticism of decided cases. The appendix contains a copy of the Income Tax Act, 1918, and those portions of the Finance Acts since passed which relate to Income Tax and Sur-tax matters. The publication also contains a comprehensive table of cases.

Spicer & Pegler's Book-Keeping and Commercial Knowledge. *Sixth Edition. Edited by W. W. Bigg, F.C.A., F.S.A.A., and H. A. R. J. Wilson, F.C.A., F.S.A.A. London: H.F.L. (Publishers), Ltd.* (352 *pp. Price* 7*s.* 6*d. net.*)

A beginner will find in this book a useful introduction to book-keeping and accounts generally, together with a large amount of information in relation to negotiable instruments, partnership and bankruptcy matters, and an explanation of the meaning and objects of the various classes of accounts now in use. There is also a chapter on office organisation and control, and in the appendix a useful list of abbreviations and definitions of commercial terms.

Rapid Calculations. *Fourth Edition. By A. H. Russell, B.A. London: The Gregg Publishing Co., Ltd., Russell Square, W.C.*1. (276 *pp. Price* 2*s.* 6*d. net.*)

Those who are interested in short methods of arriving at results will find in this book much that is interesting and instructive. The calculations which are discussed cover a wide range, including the simple rules, vulgar and decimal fractions, involution and evolution, percentages, weights and measures and money calculations; likewise prime and composite numbers and elementary mensuration.

The Companies' Diary and Agenda Book, 1934. *By Herbert W. Jordan, Company Registration Agent. London: Jordan & Sons, Ltd.,* 116/118, *Chancery Lane, W.C.*2. (*Price* 4*s. net.*)

Company secretaries will find this a useful book to have on their desks. The editorial pages deal with numerous matters which arise day by day, including the conduct of meetings, the forms of resolutions, the time for stamping documents and the recovery of the cost of spoiled stamps, &c.

Voluntary Liquidations.

A LECTURE delivered to members of the South of England District Society of Incorporated Accountants and Auditors, by

MR. E. BEAL, A.S.A.A.

Mr. BEAL said:—A company registered under the Companies Acts is a creation of the law. The law provides for its incorporation and its dissolution. The dissolution is termed winding-up or liquidation. Thus liquidation may be described as the legal process in respect of a company, the affairs of which are being wound up, whereby its assets and the proceeds thereof are divided amongst the persons entitled thereto. The Companies Act, 1929, and the Winding-up Rules, 1929, lay down the formalities to be observed and the law governing the rights and duties of the contributories, creditors and the liquidator. Whilst on this subject, for the benefit of students who as yet have no actual experience of liquidation, I would point out that the Companies Winding-up Rules, 1929, are most important, and should always be referred to when considering procedure and the provisions relating to details. It would amply repay students before their examination to read carefully through these Rules.

Sect. 156 of the Companies Act, 1929, provides that a company may be wound up:—

(*a*) By the Court—known as compulsory winding-up;
(*b*) Voluntarily—which we shall deal with to-night:
(*c*) Subject to the supervision of the Court.

The type of liquidation most frequently met with is the voluntary liquidation; in fact, this type has accounted for over 90 per cent. of the liquidations which have taken place during the last ten years.

Sect. 225 of the Act provides that a company may be wound up voluntarily:—

(*a*) When the period, if any, fixed for the duration of the company by the Articles expires, or the event, if any, occurs, on the occurrence of which the Articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily;
(*b*) If the company resolves, by special resolution, that the company be wound up voluntarily;
(*c*) If the company resolves, by extraordinary resolution, to the effect that it cannot, by reason of its liabilities, continue its business, and that it is advisable to wind up.

I do not think we need trouble ourselves about a liquidation under sub-sect. (*a*). A liquidation under this sub-section must be very rare indeed. I have never spoken to any person who has been concerned in such a liquidation.

A liquidation under sub-sect. (*b*) would in almost every case be a members' winding-up, and a liquidation under sub-sect. (*c*) would always be a creditors' winding-up. The two phrases, "Members' Winding-up" and "Creditors' Winding-up" were used for the first time in the Companies Act, 1929, and I propose to deal with each type of winding-up separately, as far as formalities are concerned, and then to deal with general matters arising in either type of winding-up.

MEMBERS' WINDING-UP.

Prior to the Act of 1929, there had only been one mode of winding-up voluntarily. In this case the members of the company held their meeting, decided to go into voluntary liquidation, appointed the liquidator, and then called a meeting of creditors. It was difficult for the creditors to have any measure of control without causing the liquidation either to be placed under the supervision of the Court, or proceedings to be taken for the compulsory winding-up of the company. As this usually resulted in financial loss to the creditors it was very rarely done, and the Companies Act, 1929, took a step in the right direction when it provided for creditors in the winding-up of a company, where it was not anticipated the debts would be paid in full, to obtain some measure of control of the proceedings. In order for the members of the company to retain full control of the proceedings the liquidation must be a members' winding-up.

A members' winding-up is initiated by the directors of the company making a statutory declaration to the effect that they have made a full inquiry into the affairs of the company and have formed the opinion that the company will be able to pay its debts in full within a period not exceeding twelve months from the commencement of the winding-up. This is called a declaration of solvency.

The formalities are as follows:—The directors meet and inquire into the position, and if satisfied that the company will be able to pay its debts in full within twelve months of the commencement of the winding-up, the whole of the directors, or a majority of them, make the statutory declaration of solvency. This must be filed with the Registrar of Joint Stock Companies.

After the receipt of the declaration by the Registrar, an extraordinary meeting of the members is called. The resolution to wind up must be a special resolution, that is, a resolution passed by a majority of not less than three-fourths of such members as being entitled to do so *actually vote* at a meeting of which not less than twenty-one days notice has been given, specifying the intention to propose the resolution as a special resolution. The notice may be dispensed with if *all* members agree to dispense with it. (Sect. 225 (*b*) and 117 (2).)

The company in general meeting *shall* appoint the liquidator(s) and *may* fix remuneration. (Sect. 232.)

When the resolution to wind up is passed, the *company* must, within seven days, give notice of the resolution by advertisement in the *Gazette*. (Sect. 226 (1).)

The resolution to wind up must be printed and a copy lodged with the Registrar within fifteen days of the passing thereof. (Sect. 118 (1).)

The liquidator shall, within twenty-one days of his appointment, give notice to the Registrar of his appointment in the form prescribed by the Board of Trade.

In the event of the winding-up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding-up and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding year.

When the liquidation is completed, the liquidator must make up an account showing how the winding-up has been conducted and the property of the company disposed of, and shall call a general meeting of the company for the purpose of laying before it the account and giving any explanations (sect. 236 (1).) This meeting is to be called by advertisement in the *Gazette*, published at least one month before the meeting (sect. 236 (2).); whilst neither the Act nor the Rules are clear on the matter, it is thought advisable that notice should also be given to the members of the company by post.

Within one week of holding the above meeting the liquidator shall send to the Registrar :—

(i) a copy of the accounts submitted to the meeting,

(ii) a return of the holding of the meeting and its date (sect. 236 (3).)

With the notice of the final meeting it is usual to give notice that an extraordinary resolution will be submitted as to the way in which the books and papers of the company and of the liquidator are to be disposed of. (Sect. 283 (1) (*a*).) It should be borne in mind that if an extraordinary resolution has been passed directing how the books and papers are to be disposed of, a printed copy of that resolution must be lodged with the Registrar within fifteen days.

The company is deemed to be dissolved at the expiration of three months from the receipt by the Registrar of the accounts and return of the final meeting.

This new method of winding-up is in many ways advantageous, as it enables reconstructions and amalgamations to be carried through quickly and easily, without calling meetings of creditors and reporting to them as was necessary prior to the passing of the 1929 Act. One big drawback to the procedure, however, is that the declaration of solvency which the directors make, merely expresses an opinion. Such opinion should be given only after full inquiry has been made and all relevant factors taken into account. Directors of high principle would not take advantage of this procedure unless they were definitely of opinion that the declaration they were making was supportable by facts. Unfortunately, all directors of companies are not of this class, and there is no doubt the section has been used to the detriment of creditors. It would probably have made directors more careful if some penalty had been imposed by the Act upon a person wrongfully making a declaration. The declaration is made pursuant to the Statutory Declarations Act, 1835, which renders a person making a false declaration liable to prosecution and, upon conviction, imprisonment. You will, however, appreciate the difficulty of proving that a person made the statement wrongfully, and I think it would be necessary to prove, to quote the words in our old friend, the case of *Derry* v. *Peek*, "that the false statement was made

(1) knowingly false, or

(2) without belief in its truth, or

(3) recklessly, careless whether it be true or false."

This would be a difficult matter, since, as I have said before, the declaration only states that it is the *opinion* of the directors.

In a members' voluntary winding-up, creditors have no rights, except, of course, the right to be paid the debts due to them, and to make applications to Court. They are not entitled, as a right, to any information from the liquidator, nor are they called together. They may inspect the company's file at Somerset House, but since twelve months must elapse before any accounts are due to be filed by the liquidator, this is not of very material benefit to them. It would appear, however, that any creditor has a right to apply to have the company wound up by the Court (sect. 255), and is not formally required to show that he would be prejudiced by a voluntary winding-up.

In most cases, however, where the liquidator is a man of standing it will be found that when he takes possession, if he is not satisfied that the company will be able to pay its debts in full, he will call a meeting of creditors and suggest to them the appointment of an informal committee to advise him in the winding-up.

CREDITORS' WINDING-UP.

This is under sect. 225 (1) (*c*), which states that a company may be wound up voluntarily if it resolves by extraordinary resolution that it cannot by reason of its liabilities continue in business, and that it is advisable to wind up.

An extraordinary general meeting of the company is to be called in accordance with the Articles of Association to pass an extraordinary resolution to wind up. An extraordinary resolution is one passed by a majority of not less than three-fourths of such members, as, being entitled to do so, vote in person or by proxy at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been given. The notice required for this meeting is that fixed by the company's Articles, or, if the Articles are silent on the point, then by seven clear days.

Under sect. 238 (1) a meeting of creditors is to be called for the same day or the day following that on which the general meeting of the company is held, by notices sent by post simultaneously with the sending of the notices of the meeting of the company. Accompanying notices of the creditors' meeting, forms of special and general proxy must be sent. These proxies do not require to be stamped. In addition to the notice by post, notice must be given by advertisement in the *Gazette* and in two local newspapers.

The business at the meeting of the members is merely to pass the resolution that the company cannot, by reason of its liabilities, continue in business, and that it is advisable to wind up, and to nominate a liquidator. The Act does not prescribe any specific information which must be given at the meeting of members.

For the creditors' meeting there are definite rules laid down, and in this connection sect. 238 of the Act will repay careful study. You will find from sub-sect. (3) of that section that as regards the meeting of creditors, the directors of the company must :—

(*a*) cause a full statement of the position of the company's affairs, together with a list of the creditors of the company and the estimated amounts of their claims, to be laid before the meeting of creditors, and

(*b*) appoint one of their number to preside at the said meeting, and sub-sect. (4) provides that it shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and to preside thereat. The business of this meeting is to receive this information and to nominate a liquidator.

In a creditors' voluntary liquidation, the liquidator is appointed under the provisions laid down in sect. 239 of the Act, from which you will see that the liquidator is not appointed by the company in the first instance, but is merely nominated. If the creditors nominate the same person, or do not pass a resolution, then the person nominated by the company is automatically appointed. If, however, the creditors should nominate some other person, the nomination of the creditors prevails.

In actual practice, the passing of a resolution of creditors in a voluntary liquidation is a matter of some difficulty, since Rule 132 of the Companies Winding-Up Rules provides that a resolution shall be deemed to be passed when a majority in number and value of the creditors present personally or by proxy and voting on the resolution, have voted in favour of the resolution. Whilst this may prevent a large creditor from getting all his own way as he would in bankruptcy, it can often have the effect of preventing the majority of the trade creditors

from passing resolutions expressing their wishes. I shall deal with the appointment of the committee of inspection and its duties separately.

The advertisement of the resolution in the *Gazette*, the filing of a printed copy, and the notice to be given by the liquidator to the Registrar of his appointment, are all similar to the procedure which is followed in a members' winding-up, and which we have dealt with a few moments ago.

In the event of the winding-up continuing for more than one year, the liquidator must call a general meeting of the company, and a meeting of the creditors at the end of the first year, and of each succeeding year, or as soon thereafter as may be convenient, and lay before each meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding year. The meeting of the company must be convened and held in accordance with the provisions of the Articles, and the meeting of the creditors must be summoned by giving not less than seven days' notice in the *Gazette* and a local paper. Notice must also be sent by post to each creditor.

By Rule 131 of the Winding-Up Rules, the liquidator shall be chairman of every meeting called by him in the winding-up.

When the liquidation is completed, the liquidator must make up an account showing how the winding-up has been conducted and the property of the company disposed of, and shall call a final meeting of the members and a final meeting of the creditors, for the purpose of laying before them the account, and giving any explanations. These meetings are to be called by advertisement in the *Gazette*, published at least one month before the meetings; whilst neither the Act nor the Rules are clear on the matter, it is thought advisable that notice should also be given to the members and to the creditors of the company by post.

Within one week of holding the above meetings, the liquidator shall send to the Registrar :—

(1) a copy of the accounts submitted to the meetings;
(2) a return of the holding of the meetings and their dates.

In cases where there is no committee of inspection, or where a committee has not exercised its power of directing the way in which the books and papers of the company and of the liquidator are to be disposed of, a resolution of the creditors with regard thereto would be taken.

COMMITTEE OF INSPECTION.

The Act contains provisions for the appointment, in a creditors' voluntary winding-up, of a Committee of Inspection. As certain of the powers of the liquidator are exercised only by consent of either the Committee of Inspection or of the Court, a committee is usually appointed except in small cases where those powers are not likely to be exercised. In many cases, matters have to be decided calling for a technical knowledge of the company's assets and business, and in these a Committee of Inspection composed of experienced trade creditors would be invaluable to the liquidator.

Sect. 240 governs the appointment of the committee, and it provides, briefly, that the members and the creditors, at their respective meetings, can appoint a committee of inspection, provided that each meeting shall not appoint more than five, making a total committee of ten. In practice, committees are smaller than this. There are provisions whereby the creditors can object to the persons appointed by the members, and disputes are settled by the Court.

The committee meets at such times as they from time to time appoint, and if no time is so appointed, they must meet at least once a month. Under Rule 159, a member of the committee may not, directly or indirectly, purchase any part of the company's assets. Under Rule 160, a member of the committee may not, directly or indirectly, derive any profits from any transaction arising out of the winding-up without the sanction of the Court, the costs of such sanction having to be borne by the person in whose interests such sanction is obtained. The costs are not to be paid out of the company's assets in any event.

The powers of the Committee include :—

(*a*) fixing the remuneration of the liquidator;
(*b*) sanctioning the continuance of the powers of directors;
(*c*) sanctioning the receipt by the liquidator of shares, policies or other like interests in another company as consideration for the transfer of assets of the liquidating company;
(*d*) sanctioning the payment of any class of creditors in full, compromises or arrangements with creditors, compromising calls and debts due to the company;
(*e*) deciding as to the disposition of the books and papers of the company and the liquidator.

GENERAL MATTERS.

On his appointment the first duty of a liquidator is to ascertain the actual position of the company's affairs. It may be that the liquidator appointed has previously been auditor of the company, and has himself prepared the statement of affairs submitted to the meeting of creditors. If this is the case it is all to the good, but should it not be so, a detailed inquiry into the company's assets and liabilities should be made in order to guide the liquidator in determining his policy. This may necessitate the writing up of the books of the company, as it is sometimes found, particularly in smaller concerns, the books have been neglected.

The position with regard to the insurances carried by the company should be examined, and the liquidator should satisfy himself that all reasonable and usual risks are covered, and the policies should be endorsed by the insurance companies with a note of the liquidator's appointment.

Any credit bank balances of the company should be transferred to an account in the liquidator's name.

Notice of the liquidator's appointment should be given to all debtors of the company with a request for payment.

Arrangements should be made for the opening of all correspondence either personally or by deputy, and in the majority of cases it will be found advantageous to arrange with the postal authorities for letters to be delivered to the liquidator's own office.

In considering the policy to be adopted in the winding-up, and particularly as to whether the business should be carried on, regard should be paid to the following points :—

1. The orders on hand at the date of liquidation, particularly whether such orders are likely to be profitable if carried out.
2. The nature of the stock, and whether it will be more advantageous to realise this in bulk, by private treaty, or public auction.
3. The probable low prices obtainable if assets are broken up and sold piecemeal.
4. Whether any goodwill exists which should be preserved.

The liquidator must not, in considering these points, lose sight of the provisions of sect. 228 of the Act, which provides that in the case of a voluntary winding-up the company shall, from the commencement of the winding-up, cease to carry on its business, except so far as may be required for the beneficial winding-up.

Should the liquidator decide to carry on the business with a view to beneficial realisation, he will, at the same time, take the necessary steps to see that it is properly advertised as being for sale as a going concern, and advertisements will usually be inserted in local and London newspapers and trade journals. Circulars should also be prepared, giving details of the company's business, its situation, the turnover for a past number of years, and other particulars which would be of interest to potential purchasers.

The liquidator should :—

(*a*) Obtain a list of officials, clerks, and workmen, and their duties, make arrangements to dispense with those not required, continuing others on a day to day arrangement.

(*b*) Arrange for all orders for goods to be signed by him or his authorised deputy. Strict supervision should be kept to see that only purchases for current requirements are made, as there would be no excuse for over-stocking.

(*c*) Give instructions that on every invoice, order or letter, a statement appears that the company is being wound up. This is a statutory provision, and a penalty is imposed for its non-observance.

(*d*) Arrange that sales be for cash as far as possible, but if credit be allowed it should be only to persons whose credit is not in question. Care should be exercised that no goods are supplied on credit to persons or firms who were creditors of the company at the date of winding-up unless an undertaking to pay the liquidator therefor is obtained. These persons or firms might seek to set off the price of the goods so purchased by them against the amount of their debt or claim against the company. Since the corporate state of the company continues until the dissolution after the final meeting, it is possible that such a claim would be good in law, and it should be carefully guarded against.

(*e*) Make arrangements as to the extent of the liquidator's personal or deputised supervision. A useful plan is to draw up a form of weekly report as to sales, purchases, expenses, book debts, and bank balance, and a careful perusal of this, week by week, will enable the liquidator to determine the wisdom or otherwise of continuing to carry on the business.

If the business is not sold as a going concern within a reasonable time, arrangements must be made to cease trading and realise the assets by private treaty, tender, or public auction. Suitable particulars must again be prepared of the assets to be disposed of as will convey to the mind of potential purchasers some idea of their nature and value.

EXECUTIONS IN VOLUNTARY LIQUIDATION.

It will be necessary to inquire whether any executions have been levied on the company's assets, and whether such executions were completed prior to the commencement of the winding-up. Sect. 268 of the Act provides that where a creditor has issued execution against the goods or lands of a company, or has attached any debt due to the company, and the company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding-up of the company unless he has completed the execution or attachment before the commencement of the winding-up. The section also provides that where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding-up is to be proposed, the date on which the creditor so has notice shall be substituted for the date of the commencement of the winding-up. So that in a case where prior to the winding-up a creditor has issued execution, and then the Sheriff has withdrawn with a power of re-entry under an arrangement for the company to pay sums on account, provided that such execution has not been completed at the date of the commencement of the winding-up, any sums so paid to the creditor or the Sheriff are repayable to the company.

Furthermore, sect. 269 provides that if, in the case of a company, a sheriff is in possession and a notice is served on the sheriff of a meeting being called at which a resolution for voluntary winding-up is to be passed, and such resolution is passed, the sheriff shall, on being so required, deliver the goods, and any money seized or received in part satisfaction of the execution to the liquidator. Where under an execution in respect of a judgment for a sum exceeding £20, the goods of a company are sold or money is paid in order to avoid sale, the sheriff is to hold the net proceeds for a period of fourteen days. If within that time notice is served on him of a meeting having been called at which there is to be proposed a resolution for the voluntary winding-up of the company, and a resolution is passed, the sheriff must pay the net proceeds to the liquidator, who is entitled to retain as against the execution creditor. The section provides that the costs of the execution are a first charge on the assets or the moneys held, and it has been decided that such costs were only the sheriff's costs, and that the costs incurred by the creditors in connection with the issue of the writ were to rank along with the creditors' claim as an unsecured debt.

In liquidation, there is no possession order and disposition clause as there is in bankruptcy.

LIABILITIES OF THE COMPANY.

With regard to the liabilities of the company, it will usually be found that some slight differences will exist between amounts claimed by creditors and the amounts shown to be due by the company's books. These differences are usually settled without much difficulty on inquiry into the facts, but it is as well to remember that a liquidator has a right to call for a formal sworn proof of debt, but this procedure is very rarely adopted. In connection with the settlement of creditors' claims, the provisions of Rule 96 should be borne in mind, which provide that a creditor proving his debt shall deduct therefrom :—

(*a*) Any discount which he may have agreed to allow for payment in cash in excess of 5 per centum on the net amount of his claim.

(*b*) All trade discounts.

The order in which the proceeds realised must be applied by the liquidator is as follows :—

(1) Costs of the liquidation.

(2) The preferential debts.

(3) Ordinary debts.

(4) Shareholders.

When the liquidator has satisfied himself that there will be sufficient funds to pay the costs of the liquidation and preferential claims, he should pay the preferential claims as soon as may be convenient. Sect. 264 sets out

the debts which are to be treated preferentially, and an interesting introduction was made in the Companies Act, 1929, which provided that money advanced by some person for the purpose of paying wages or salary which would have had a preferential right in a liquidation, is to be deemed to be a preferential debt to the extent to which the amount advanced was so paid, and by which the preferential claim of the clerk, servant, or workman has been diminished by reason of the payment having been made. This provision, I am sure, will have influenced the minds of bankers making further advances on overdraft accounts where the money has been required for the payment of wages.

A liquidator will often find that where for any reason he requires gas, water, or electricity to be supplied to the company's premises, the authority responsible for the supply will require a personal undertaking for the payment of any goods supplied and also for any arrears which exist. Most supplying companies or authorities have in their bye-laws a provision that they are entitled to discontinue supplies where payments are in arrear, and as the liquidator is the agent of the company, they are quite entitled in law to adopt this attitude. It always seems to me, however, that the supplying company or authority takes an unfair advantage of being in a monopoly position, and if the Legislature had thought that these were a class of debts which should be paid in full it would have been an easy matter for a provision to that effect to have been included in the new Act.

Claims for Rent.

The 1929 Act has done nothing to clarify the position of the landlord in a voluntary winding-up. Apparently the landlord cannot distrain after the winding-up has commenced, but there is nothing in the Act which states what his position shall be if he has distrained prior to the winding-up. Sects. 268 and 269, which deal with uncompleted executions, do not mention the word "distress," and it is a matter for regret that the landlord's position in voluntary winding-up was not made perfectly clear when the 1929 Act was framed.

Liquidator's Right of Disclaimer.

Sect. 267 of the Act gives a liquidator a right to disclaim any part of the property of a company which is burdened with onerous covenants, shares or stocks in companies, unprofitable contracts, or any other property that is unsaleable or not readily saleable, by reason of its binding the possessor to the performance of any onerous act or the payment of any sum of money. The liquidator must apply to the Court for leave to disclaim within twelve months of the commencement of the winding-up, or, where the existence of the property does not come to the knowledge of the liquidator within one month after the commencement of the winding-up, then within twelve months after he has become aware of the existence of such property.

Fraudulent Preference.

The liquidator must make an investigation as to whether the company has fraudulently preferred one or more creditors over the rest. Sect. 265 provides that any act which would, in the case of an individual in his bankruptcy, be deemed a fraudulent preference, shall be deemed, in the event of a company being wound up, a fraudulent preference of its creditors and be invalid accordingly. When considering the question of fraudulent preference, the liquidator should have regard to the following points :—

(1) The company must have been insolvent at the time of the transaction in question.

(2) It must have been within three months of the commencement of the winding-up.

(3) The motive behind the transaction must have been that of preferring the particular creditor.

This last point is most important, as the Court would not examine the effect of the transaction, but the motive behind it.

Misfeasance, Fraud, &c.

The liquidator must examine the transactions of the company with a view to ascertaining whether any person who took part in the formation or promotion of the company, or whether any past or present director, manager or liquidator, or officer of the company, has been guilty of misfeasance or breach of trust in relation to the company or has misapplied moneys. He should also examine whether any past or present director, manager, or other officer, or any member, has been guilty of any offence in relation to the company for which he is criminally liable. In this latter case the matter must be reported to the Public Prosecutor. The sections dealing with these matters are numbered 271 to 277 inclusive, and will amply repay careful study.

Under sect. 232 the liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding-up of a company, and under sect. 214 persons suspected of having property of the company, or being able to give useful information, may be summoned before the Court for examination.

The Position Where a Receiver is Acting.

It may sometimes happen that when a liquidator is appointed, a receiver for debenture holders is already in possession. The liquidator should examine the circumstances surrounding the creation of the debentures and the appointment of the receiver. If satisfied that the debentures and the appointment are in order, he cannot oust the receiver from possession. He should, however, see that the receiver takes possession only of the assets covered by the charge, and should the charge be a floating one he should take care that the receiver pays the preferential debts of the company before making any payment to the debenture holders for principal or interest in respect of the debentures.

The liquidator is entitled to the company's books as against the receiver, but must allow the receiver access to them at reasonable times in order that he may carry out his duties. The liquidator is entitled to call for an account from the receiver, who should, of course, account to the liquidator for any sums received in excess of his claims. It sometimes happens that a receiver has only power to receive income from property and not to sell the assets. In this case it might be well to call the members or creditors of the company together to ascertain whether it would be advantageous to raise the money to pay out the receiver in order that beneficial realisation of the assets could be proceeded with.

Floating Charge on the Company's Assets.

Where a floating charge exists on the company's assets, the liquidator should examine the circumstances under which it was given, as sect. 266 provides that a floating charge, given within six months of the commencement of the winding-up, in respect of consideration other than cash paid to the company at the time of the creation of the charge, shall be invalid unless it is proved that the company, immediately after the creation of the charge, was solvent.

CONTRIBUTORIES.

In a voluntary winding-up, the settlement of the list of contributories devolves upon the liquidator, and where shares are not fully paid this matter should be dealt with early in the liquidation. No formal procedure is laid down by the Act to be followed in the case of voluntary liquidation, but the liquidator would be well advised to follow as far as possible the procedure laid down in a compulsory winding-up. It is as well to mention that the holders of both partly paid and fully paid shares are to be included as contributories, as one of the objects of liquidation is the settlement and adjustment of the rights of the contributories among themselves as well as the payment of the debts and liabilities of the company.

Debts due by a company to a member cannot be set off against calls after the company has gone into liquidation, although this course could be adopted prior to the liquidation proceedings. The contributory must therefore pay the call, and then prove as an unsecured creditor for the debt due to him.

ACCOUNTS.

The liquidator must keep a careful record of all moneys received and paid by him, as in addition to the summary accounts which must be laid before the members and creditors at the annual and final meetings, he is required, where the winding-up is not concluded within one year after its commencement, to send to the Registrar of Companies at such intervals as may be prescribed, a statement in the prescribed form. In practice, the account is required at the end of the first year, and then at half-yearly intervals, and must be prepared on Form No. 92, which is a detailed record of receipts and payments. Where the business has been carried on, the receipts and payments on trading account must be shown on a separate form, and the totals of receipts and payments on trading account brought into the Form 92. The account is prepared in duplicate and verified by affidavit. It should be pointed out that where it has not been possible to hold the final winding-up meeting within nine months of the commencement of the winding-up, the liquidation cannot be concluded within one year of the commencement, as the dissolution does not take place until three months after the Registrar has received a return of the holding of the final meeting.

Where it appears from these accounts that the liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, such funds are to be paid into the Companies Liquidation Account at the Bank of England.

ADVERTISING FOR CLAIMS.

There is no requirement in the Act or Rules that a liquidator shall advertise for claims of creditors or give notice to any person whom he believes to be a creditor that he is about to make a distribution. Rule 104, however, provides that a liquidator may fix a certain day on or before which the creditors are to prove their debts or claims, and give notice in writing of the day so fixed by advertisement in such newspaper as he shall consider convenient; but it appears to me that a liquidator, for his own protection, would be well advised to give notice by post and by advertisement in both local newspaper and the *Gazette* that he is about to distribute, and that claims should be proved to him on or before a certain date. When all assets have been realised and other matters dealt with, the liquidator will make a distribution to unsecured creditors, although possibly during the course of the liquidation it will have been found possible to declare interim dividends.

Should there be any funds after payment of creditors' claims in full, these will be available for the contributories.

After the distribution has been made, the liquidator will draft his final accounts, call his final meetings and make a return to the Registrar.

Obituary.

WALTER DEANE OLDHAM.

We regret to announce the death, at the age of 68, of Mr. W. D. Oldham, F.C.A., senior partner of Messrs. Oldham, Holland & Co., of 17, Coleman Street, London, which took place at Kingston on November 7th, as a result of injuries sustained in a 'bus accident which occurred a few days previously. He was a man of wide sympathies and many interests, and was well known and esteemed by a large circle of friends and business associates in London and the Midlands. Mr. Oldham was admitted a member of the Institute of Chartered Accountants in England and Wales in 1898, and practised at 17, Coleman Street for 35 years in partnership with Mr. W. E. Holland, F.S.A.A. In 1930 two further partners, Mr. W. Martin Hume, F.C.A., and Mr. Robert W. Metcalf, A.C.A., joined the firm, which continues under the same firm name.

WALTER FREDERIC KIGHTLY.

We regret to note that Mr. W. F. Kightly, F.S.A.A., died recently at the age of 57 years. Mr. Kightly became an Associate of the Society in 1898 and a Fellow in 1927. After many years in the service of Messrs. Cooper Brothers and Co., London, he re-entered the office of the late Mr. Edward Judson Mills, F.S.A.A., to whom he had been articled, and shortly afterwards became a partner in the firm of Edward Judson Mills & Co., Incorporated Accountants, of 1, Cheapside, London, E.C.

CYRIL HOLMES GOLDTHORPE.

We record with regret the death of Mr. C. H. Goldthorpe, F.S.A.A., of the firm of Messrs. Thomas Coombs & Son, Leeds. Mr. Goldthorpe had been a member of the Society since 1920, and was an active supporter of the Incorporated Accountants' District Society of Yorkshire. During the war he served with the Royal Fusiliers (City of London Regiment), and his death on November 1st last was attributed to wounds received in action. He was 39 years of age.

WILLIAM HENRY DUNLOP.

The death is announced of Mr. W. H. Dunlop, F.S.A.A., who had been a member of the Society since the year 1906. Mr. Dunlop was for many years Accountant to the Intermediate Board of Education for Ireland, until on the establishment of the Irish Free State he became Principal of the Higher Education Division of the Ministry of Education for Northern Ireland. From this position he retired in 1925. His interest in education also found expression in his work as lecturer in accountancy at the Rathmines School of Commerce and as an examiner to Trinity College, Dublin.

Incorporated Accountants' Newcastle-upon-Tyne and District Society.

ANNUAL DINNER.

The annual dinner of the Incorporated Accountants' Newcastle-upon-Tyne and District Society was held at the Royal Station Hotel, Newcastle-upon-Tyne, on November 24th. The PRESIDENT (Mr. W. H. Stalker) was in the chair, and others present included Mrs. Stalker, Mr. E. Cassleton Elliott (President of the Society of Incorporated Accountants and Auditors), and Mrs. Cassleton Elliott, the Lord Mayor and Lady Mayoress of Newcastle (Councillor and Mrs. John Leadbitter), the Sheriff of Newcastle (Alderman W. Locke), Councillor Mrs. Locke, Mr. A. A. Garrett, M.A. (Secretary of the Society of Incorporated Accountants and Auditors), the Mayor and Mayoress of West Hartlepool (Councillor and Mrs. F. B. Magee), the Deputy Mayor and Deputy Mayoress of Gateshead (Alderman and Mrs. S. A. E. Ellis), Major-General Sir R. A. Kerr Montgomery, K.C.M.G., His Honour Judge Thesiger and Mrs. Thesiger, Councillor F. Wilson (President, Corporation of Accountants), Mr. Graham Adam (Hon. Secretary, Northern Society of Chartered Accountants), Mr. A. D. Minton-Senhouse (District Registrar), Mr. J. W. Robertson (President, N.E. Coast Association of Chartered Secretaries), Mr. J. G. Dawson (Chairman, Incorporated Secretaries' Association, Newcastle and N.E. District Centre), Mr. Trevor Whitaker (President, Newcastle Insurance Institute), Mr. E. T. Nicholson (President, Sunderland Chamber of Commerce), Lieut.-Colonel B. Peatfield (Clerk to Income Tax Commissioners), Mr. F. C. Wells (Official Receiver in Bankruptcy, Newcastle), Mr. W. P. Sawyer (Inspector of Taxes, Sunderland), Professor H. M. Hallsworth, M.A., Professor W. E. Curtis, D.Sc., Mr. H. J. Thompson, F.S.A.A. (Newcastle City Treasurer), Mr. C. B. Fenwick (barrister-at-law), Mr. W. Metcalf McKenzie (Past-President of the District Society), Mr. G. A. Ridgway (President, Hull and District Society), Miss P. E. M. Ridgway, B.A., Mr. Joseph Turner (President, Manchester and District Society), Mr. R. H. S. Heap (President, Bradford and District Society), Mr. Thomas Hayes (President, Yorkshire District Society), Mr. A. B. Griffiths (President, Sheffield District Society), Mr. A. H. Crumpton (Hon. Secretary, Hull and District Society), Mr. Halvor Piggott (Hon. Secretary, Manchester and District Society), Mr. J. W. Richardson (Hon. Secretary Sheffield and District Society), Mr. C. P. Barrowcliff (Hon. Secretary, Middlesbrough Students' Society), Mr. M. H. Groves and Mr. Fred W. Smith (Vice-Presidents of District Society) and Mr. J. E. Spoors (Hon. Secretary).

The CHAIRMAN, Mr. W. H. Stalker, proposing "The City and County of Newcastle-upon-Tyne," said they were delighted to have with them the Lord Mayor and the Sheriff and their wives. A year ago he referred to the state of trade in that neighbourhood and expressed the hope that they might soon see a return to prosperity. He was glad to say that there were distinct signs of revival in trade and industry not only in that North-East area but throughout the country. He quoted figures of coal shipments from the Tyne, improved railway returns, and a decrease of Tyneside unemployment announced by the Ministry of Labour. So far as building was concerned he understood that in that area there was more activity than in any other similar area throughout the country. He was glad that at last the local authorities were beginning to realise the importance of having a proper cost accounting system, as the basic principles of cost accountancy could be applied to many problems.

The LORD MAYOR OF NEWCASTLE, in his response, said the North-East had suffered a long period of depression, but he was inclined to agree with Mr. Stalker when he said the state of trade was better than a year ago. Mr. Stalker had also talked of a decrease in unemployment, but he was not so sure of that. As chairman of the Newcastle Public Assistance Committee he knew that just as the Ministry of Labour books showed a decrease, so was there an increase on the books of the Public Assistance Committee. He agreed, however, that there were signs of trade revival, and he hoped they would materialise. With regard to the Corporation, he mentioned that they had three qualified accountants on the City Council and many more who thought they were accountants.

The SHERIFF, who also responded, said he was still very much concerned in regard to the amount of juvenile unemployment.

Major-General Sir R. A. KERR MONTGOMERY, proposing "The Society of Incorporated Accountants and Auditors," remarked that he was a soldier for forty years and, until he retired, he knew nothing of accountants—except auditors, whom in his Army days he looked upon as his mortal enemies. (Laughter.) He described adventures he had had with pay lists and Army ledgers during the South African War. He thought accountants hardly realised what a difficult job it was looking after books under the restrictive conditions of active service. Since leaving the Army and taking to business he could honestly say that he appreciated how useful accountants were, and he had very great respect for their capabilities.

Mr. E. CASSLETON ELLIOTT (President of the Parent Society) said it might interest the proposer of the toast to know that he (Mr. Elliott) helped in some small measure to clear up the mess which the General and his colleagues left in South Africa. (Laughter.) Sir Kerr had proposed the toast with much humour and in his heart he clearly had a great deal of respect for the profession. This was his (Mr. Cassleton Elliott's) first visit to Newcastle, and he was glad to see such a happy crowd of Incorporated Accountants and their friends. The attendance was an indication of the way in which the district had been organised by Mr. John Telfer. For many years Mr. Telfer had carried out the duties of Hon. Secretary to the Newcastle and District Society in a most enthusiastic manner, and he was happy to hear that Mr. Telfer had been appointed Bursar of Armstrong College in the University of Durham. He was sure all would join with him in congratulating Mr. Telfer upon that appointment. He also congratulated the members on having secured the services of Mr. Spoors—a young man, full of energy and vitality—as Mr. Telfer's successor in the office of Honorary Secretary. They would expect him to say something about the accountancy profession. During the past year the outstanding feature had been the International Congress on Accounting, held in London in July. He thought those who were privileged to be present at the Congress would agree that all the sponsoring bodies worked together in unity and concord with the one idea of advancing the profession. The visitors from other nations went away with the greatest respect for the accountancy profession in this country. He could say quite fearlessly that the Congress had also done the accountancy profession of this country a large amount of good and had been marked by a spirit of co-operation and goodwill among the sponsoring bodies. Turning to the economic situation, Mr. Elliott thought this country was becoming more prosperous because we had faced the position and, as a nation, balanced our Budget. Other countries would have to do that before they, too, could go ahead. In balancing our Budget we had placed very

heavy burdens upon ourselves, the chief of which were income tax, sur-tax, and death duties. So far as the death duties were concerned he saw no chance of their being reduced in the near future, but he hoped for a reduction of income tax. They looked to a reduction of income tax to stimulate a return to prosperity. A reduction, however slight, would be of immense benefit to industry and commerce. In conclusion, Mr. Elliott said he was delighted to hear that there were three fully qualified accountants on Newcastle City Council. Accountants in municipal life were of great service to the community. (Applause.)

Mr. M. H. GROVES (Vice-President of the District Society) proposed the toast of "The Guests." He extended a special welcome to Mr. Cassleton Elliott, the President, and to Mr. Garrett, the Secretary, of the Parent Society.

His Honour JUDGE THESIGER, in response, said he supposed he had been invited there because of one similarity of the accountant's duties and his own. He, too, often had to "sum up." (Laughter.) It had been a "capital" dinner, with "interest" in all the speeches; there had also been a plentiful supply of "liquid assets," and in spite of that they hoped that when they left that building they would all be able to "show a balance." (Laughter.)

Mr. G. A. RIDGWAY (President of the Hull and District Society) gave the final toast of "The Chairman," which Mr. STALKER acknowledged.

"THE STATIST" BANKING NUMBER.

The annual International Banking Section of *The Statist* was published in the issue of November 11th. In view of recent events, special prominence is given to the situation in the United States of America, the first two articles dealing with "American Monetary Policy" and "Banking Reform in the United States." Other articles discuss banking conditions in France, Germany, Austria, Canada, Australia, New Zealand, South Africa, and India, and the remainder of the section provides detailed notes and statistics of individual banks in all parts of the world.

The writer of the article on "American Monetary Policy" traces the recent history of the American currency, the National Recovery Act and the purchasing of gold at constantly rising prices by the Government of the United States. The various steps taken, although sometimes bewildering, are all found to be clear expressions of the ultimate aim of restoring internal prices to the level of 1926—an aim which overshadows all external considerations. The conclusion reached, however, is that the policy is doomed to failure, although to abandon it now would be to run the risk of economic collapse.

Professional Appointments.

Mr. John William Todd, C.B.E., F.S.A.A., Deputy Accountant General to the Ministry of Labour, has been appointed Accountant General to the Ministry in succession to Mr. Frederick Gatus Bowers, C.B., C.B.E., A.C.A., who was recently appointed Comptroller to the London County Council.

Mr. J. H. Robinson, A.A.S.A., who was assistant to the City Treasurer of Liverpool, has been appointed to the position of Borough Treasurer of Huddersfield.

Mr. Lewis Lord, F.S.A.A., who was Treasurer to the Stretford Urban District Council, has been appointed first Borough Treasurer of the newly constituted Borough of Stretford.

A CASE OF FALSE PRETENCES.

Articling Pupils to Accountancy.

At the Liverpool Assizes a sentence of 18 months imprisonment in the second division was passed upon Fred Hodgson, described as an accountant, of Otley. The charges covered 19 counts of obtaining or attempting to obtain sums totalling £1,000 by false pretences. Hodgson originally pleaded not guilty, but later in the proceedings his counsel stated that in the light of evidence given for the prosecution, he had decided to withdraw that plea and plead guilty to all the charges of false pretences, but not guilty to a further charge of fraudulently converting £100. This plea was accepted by the prosecution.

The case for the prosecution was that the accused, by false pretences, obtained £400 and attempted to obtain a further £600, either as premiums to be paid for articling young men to accountancy, or as deposits to be lodged by prospective employees as security for their honesty.

Detective-Inspector D. Thomson said the accused, Hodgson, was a native of Otley. As a boy he was employed for four years in a Leeds solicitor's office. He next carried on a wholesale chocolate business in Leeds, but numerous complaints were received by the police respecting non-delivery of goods which had been paid for.

In January, 1921, Hodgson filed his petition in bankruptcy, but the receiving order was annulled because he was under age.

In September, 1921, at Aberdeen, he was sentenced to seven months for obtaining £50 by false pretences and five further offences of attempting to obtain money by false pretences. In these cases he advertised for travellers to represent leading chocolate firms and asked for security of £250. He also represented himself to be a director of an Edinburgh firm which did not exist.

From 1922 to 1929 he was employed by a firm of provision merchants at Penrith, and gave every satisfaction. In 1929 he returned to Leeds and taught accountancy by postal courses. For eighteen months he was employed by an insurance company, but was called upon to resign. From June, 1929, to 1931 he dealt in motor-tyres in London. Returning to Leeds he was employed as salesman by a firm of caterers. At the same time he rented rooms and described himself as accountant.

At Leeds Assizes in October, 1931, he was charged with fraudulent conversion, but was acquitted.

He carried on another office at Preston from January to May of this year, but it was closed down with rent owing. From March to November, 1932, he had an office in Manchester, but the bailiffs took possession for rent.

For twelve months prior to his arrest Hodgson had obtained sums amounting to over £1,000 from persons investing as partners in his various businesses, or as premiums for tuition in accountancy.

Mr. Kennan, on behalf of the accused, said that between 1922 and 1929 he made a genuine attempt to better himself. He studied accountancy and obtained a number of qualifications in connection with the Royal Society of Arts, the Association of Commercial Science, the Association of Book-keeping Teachers, and the National Association of Commercial Teachers. He also became a licentiate of the Faculty of Insurance. Hodgson said that in 1926-28 he was appointed an examiner in accountancy for examinations held in the North of England by the

Association of Commercial Science. He began to take pupils, and at one time had as many as forty preparing for examinations. He felt he was entitled to commercialise his certificates and his knowledge of accountancy in that way.

In Manchester he had numerous clients for whom he did debt collecting work, and he made strenuous efforts also to develop the auditing side of the business. Although he brought more capital into the business, however, he became short of ready cash to meet liabilities. He now appreciated that pupils from whom he had obtained premiums were attracted by more than the mere agreement to give them tuition.

The Judge, in passing sentence, said Hodgson had committed persistent, systematic and cruel frauds.

The prevailing type of case was that in which, with singular meanness, he had obtained money from persons anxious to start their boys in life. It was deplorable that they should have lost their money in that way.

COMPANY LAW AMENDMENT.

Deputation to the President of the Board of Trade.

On November 16th Mr. Walter Runciman, the President of the Board of Trade, received a deputation from the Association of British Chambers of Commerce on Company Law Amendment. The deputation was introduced by Sir Alan Garrett Anderson (President), who was supported by the following members: Mr. H. Lakin-Smith, F.C.A. (Vice-President and Chairman of the Finance and Taxation Committee); Sir James Martin, F.S.A.A. (Vice-President); Mr. W. J. Back (Hull); Mr. R. Wilson Bartlett, F.S.A.A. (Newport, Mon); Sir John Eaglesome, K.C.M.G. (Leeds); Mr. P. D. Leake, F.C.A. (London); Mr. Henry Morgan, F.S.A.A. (London); Mr. R. E. Satterthwaite (London Stock Exchange); Mr. W. H. Stentiford, F.C.I.S. (London); Mr. F. Wilcock, F.C.A. (Preston); Major L. V. Wykes, F.C.A. (Leicester); Mr. E. Roscoe (London); Mr. A. W. Palmer (Portsmouth); and Mr. R. B. Dunwoody, C.B.E. (Secretary).

Sir Alan Anderson said the Association had given a great deal of consideration to the position of the existing Company Law. The Special Committee, under the chairmanship of Mr. H. Lakin-Smith, had drawn up a careful report, which had been adopted by the Association. He hoped the President of the Board of Trade would be able to accept their recommendations or appoint a Committee to go into the subject with a view to the amendment of the existing law.

Mr. H. Lakin-Smith put forward the views of the Association as to the amendments desirable in the Companies Act which had been outlined in the report of the Special Committee on Company Law Amendment, and formally submitted by the Association to the Board of Trade.

Mr. Morgan, Mr. Stentiford and Major Wykes emphasised specific points contained in the report.

The President of the Board of Trade thanked the deputation for submitting their views and promised to give careful consideration to the representations made.

Sir James Martin, in thanking the President for his courteous reception, said that he had been a member of the previous two Government Committees which had inquired into this question, and he would wish to support most heartily the representations which had been made.

Incorporated Accountants' District Society of North Lancashire.

ANNUAL DINNER.

The fourth annual dinner of the North Lancashire Society of Incorporated Accountants was held at the Park Hotel, Preston, on October 28th. Ald. JOHN POTTER, J.P., M.P., the President of the North Lancashire Society, took the chair, and amongst over eighty guests were Mr. E. Cassleton Elliott (President of the Parent Society), the Mayors of Preston, Blackpool and Blackburn, the Town Clerks of Preston, Lancaster and Blackburn, the Presidents of the Law Societies of Preston, Blackpool and the Fylde, and Blackburn, Ald. H. Astley-Bell (President of the Preston and District Chamber of Commerce), Col. H. Parker (Official Receiver), Mr. R. F. Easterby (Lancashire County Treasurer), Mr. A. A. Garrett (Secretary of the Parent Society), Mr. Arthur Collins (member of the Council), Mr. H. Fazackerley (Solicitor), and Mr. W. Bateson, J.P.

The loyal toast having been honoured,

Mr. HENRY FAZACKERLEY, proposing "The Society of Incorporated Accountants," said he had read the reports of the Society's previous annual dinners with interest. He had noticed how they always invited someone of distinction to speak, and he always wondered how long it would be before they invited him. (Laughter.) Therefore when the invitation came along it was no surprise. It just made him say to himself, "Now this noble and deserving Society has come into its own." (Laughter.) He thanked them for the invitation and he thanked them for their hospitality. It was of the very best. The Incorporated Society was exceptional because in fifty years it had made a name for itself in the professions. It stood to-day a Society of increasing status, but with its old nobility of purpose. In the old days, men in the same profession regarded each other as competitors and deadly rivals, but now there was a different spirit, and it was delightful to see gentlemen of the same profession mixing with each other in such a sociable way. He had always had a high regard for Incorporated Accountants. He often wondered which was the more popular profession in the eyes of the public, the law or accountancy. The popular view would be that Incorporated Accountants were the more popular. Maybe that was because the general public did not know them as well as the lawyers did. (Laughter.) Which was the more promising profession? No doubt many of them had been asked by parents whether a son should be trained as a lawyer or an Incorporated Accountant. He had been asked many times, and he always explained that whilst the law was a contracting profession, accountancy was an expanding profession. By that he meant that every Act of Parliament was passed to do the law out of work—perhaps it did not always have that effect—whilst it brought more work to the accountants. In his opinion there was more scope in accountancy. The Incorporated Accountants, he thought, were particularly fortunate in having such a man as Mr. E. Cassleton Elliott for their President. He had all the virtues of a fine president. As a last word, he would give them a slogan. They must not be satisfied with the past nor with the future; they must always say "The best is yet to come." This was a practical age, but still he would advise Mr. Cassleton Elliott during his year of office not to be afraid of dreaming dreams and seeing visions. He would wish the President neither wealth nor fame—but health. (Applause.) If he had

health he was a rich man. There were men who went through life like statues of petrified marble, sleeping whilst life passed on. Mr. Cassleton Elliott was obviously not one of those. Might he during his year of office have good fortune, good luck and good cheer, and might he see the strengthening of the bonds of the Society of Incorporated Accountants and Auditors. (Applause.)

Mr. E. CASSLETON ELLIOTT, responding, said he was deeply indebted to Mr. Fazackerley for what he had said and the high aims he had placed before him. To be the President of such a Society was a great responsibility, but the responsibility was lightened when he knew he had all their good wishes. Mr. Fazackerley had wished the Society well. He (the President) hoped it would go on from greatness to greatness. There was one particular in which he would have to correct Mr. Fazackerley. The Society was not quite 50 years old. It was two years short of its jubilee. Still it was a great Society, and he used that term advisedly, because it had a membership of over 6,000 accountants scattered all over the world. It was a Society of which any President might well be proud, but its greatness depended upon the various units, the District Societies, not the least of which was the North Lancashire Society. He was delighted to be with them. The North Lancashire Society was one of the most vigorous they had—how could it be otherwise with such a gentleman as Ald. John Potter in the chair? (Applause.) He had done well by the Society, and he was one of the few Incorporated Accountants in the House of Commons. Another prominent member of the North Lancashire District was Mr. W. Allison Davies. He was a member of the Council of the Parent Society, and there his counsel was always wise. Another was Mr. Arthur Collins, who really belonged to Blackpool though he was now in London. Mr. Collins was a personal friend. They had travelled together and still they were friends, which meant a great deal. Since the last dinner there had been an event of great importance to the profession—the International Congress of Accountants in the City of London in July. There were there 22 representatives of foreign countries besides the representatives of the various societies in the United Kingdom. What was noteworthy of the Congress was the spirit of good will evident between the eight sponsoring bodies. There was an atmosphere of friendliness which the visitors from overseas commented upon. In the banquet at the Guildhall they had a very brilliant function, which was an occasion of especial delight to the foreign delegates. The papers which were delivered by distinguished accountants met with general approval, and there were many excellent discussions. Here he would like to add that the papers and the discussions were being published shortly in book form, and arrangements were being made for every District Society to have a copy. He would advise all the younger members to read it thoroughly. The quality of the papers was very high indeed. Turning to current affairs, Mr. Cassleton Elliott said he was sure the country was on the road to recovery. In Preston itself he understood that during the twelve months ended in September the number of unemployed had been reduced from 15,000 to 11,000. He hoped theirs was no longer a depressed area. Their difficulties were not so great as those of America. Over there he had found nothing but the greatest admiration for the way in which Britain had faced her troubles. Yet they were of the opinion that we did not know what depression was. Britain had this satisfaction: she had balanced her Budget. That was the first necessity of any nation. A nation which refused to face facts stood in great peril. He believed that the best incentive to further trade improvement at home would be a reduction in the heavy burden of taxation. A reduction in the income tax and sur-tax would stimulate spending power and the investment of idle capital and consequent employment. They hoped, but it was only a hope, that the Chancellor of the Exchequer would be able to announce a reduction in the income tax in the next Budget. A reduction, however small, would be a tremendous fillip. If it was only sixpence off the income tax it would help trade enormously. There was nothing like being an optimist, and he thought they were perfectly entitled to a sane optimism that there would be a reduction in taxation. That would, however, still leave income tax and income tax problems, one of the chief interests of the Incorporated Accountant. The ordinary taxpayer in this country who tried to deal with his own income tax problems was foolishly advised. Taxation nowadays was such a complicated problem that a man who had not studied it carefully could not possibly understand it. He should go to an expert, and if he did that he would save money in the long run. The Incorporated Accountants considered themselves experts in that subject, although they were not allowed to advertise the fact, and he would advise all taxpayers to take their problems to either an Incorporated or a Chartered Accountant. They should be careful not to go to people who advertised for income tax work. Bona-fide accountants would give the best advice, and they should always remember that reputable accountants were *persona grata* with the Inland Revenue. That meant a great deal. The majority of Inland Revenue officers if they saw a return signed by an Incorporated Accountant were satisfied that it was correct. He did appreciate, both on his own behalf and on behalf of the Society, the kind remarks and the very good wishes of Mr. Fazackerley. With him he hoped that for the Society of Incorporated Accounants and Auditors the best was yet to come. (Applause.)

Mr. ARTHUR COLLINS, F.S.A.A., proposed the toast "Our Civic Governors." He said that the civic governors represented their clients, and he would be a callous person who in such circumstances could not take a delight in proposing their health. He had proposed that toast so often and with such enjoyment to himself that he had almost come to regard himself as an expert at it. They were honoured that night by the presence of three Mayors, and he ventured to say that that fact was a demonstration of the affinity there was between the accountancy profession and the local governing bodies of this country. He did not think that it was sufficiently well known that the accounts and finances of most of the towns of any size in this country were entrusted to the care of Incorporated Accountants. (Applause.) There were very few accountants of any other branch engaged in supervising the financial affairs of the local authorities of this land, and there was not a single county borough in Lancashire that was not served by an Incorporated Accountant as its chief financial officer. (Applause.) Where else could one find a body of men entrusted with such a responsibility as those who were in charge of the accounts of local authorities, and who had demonstrated by their long record a degree of faithfulness, honesty, integrity and industry of which any body of men might well be proud? They could all rejoice that Incorporated Accountants had made themselves so indispensable to the civic governors of the land, and he hoped they might continue to serve each other in the future as they had done in the past. (Applause.) They ought not to forget, however, their debt to the civic governors who gave so much of their time for the public welfare. He had recently returned from the United States. His hearers would be surprised if they knew the number of municipalities over there which were in difficulties, and the numbers of people there who, unable to pay their rates, had had their

property confiscated by the local authority. New York, Philadelphia, Chicago and Detroit, four of the largest cities in the United States, were in the hands of their bankers, who practically dictated their budgets and who alone were enabling the cities to carry on at all. Now they were being confronted by tremendous problems of the relief of the unemployed in numbers which made our own unemployment figures seem trifling. And their greatest difficulty was to find ways and means of keeping the distribution of relief free from dishonest practices. It was with a sense of relief that one returned to our own country, where one found oneself swelling with honest pride at the kind of civic governors we had here. He thought there was no greater tribute to our civic governors than the way in which they had administered the means test. They saw to it that honest deserving people got their due, but the money was discontinued in cases which could not be justified, and in that way a great and unjust burden was lifted from the shoulders of the mass of taxpayers. (Applause.) Mr. Collins thanked the Mayors individually for giving up their evening to be present at the dinner. He hoped that the affairs of the towns they represented would fully benefit from the improvement in trade and that they would continue to find their inhabitants as loyal, as steady and as good citizens as they had ever been. (Applause.)

The MAYOR OF PRESTON (Ald. Derham) responded. He welcomed the note of optimism sounded by Mr. Cassleton Elliott. He himself was a great believer in rational optimism. He looked upon the Preston Corporation, of which he had been a member for 28 years, as a sound rational corporation. And yet, like other corporations, they were wholly dependent upon their officials. After all, the council could bring out a policy to spend or save money, but who eventually decided what they should do? Why, the borough treasurer every time. In Preston they were lucky in that they had such fine business men as Ald. Astley-Bell and Mr. Ley on the Council. (Applause.) It was not, however, individual brilliant men who made a great Corporation; it was the perfect blend of character. Each one should specialise. As a medical man he personally had interested himself in health matters. He had always been careful to keep off financial matters, and he would at once confess that he had long since turned his income tax affairs over to an accountant. He had a great admiration for the permanent officials of the land. They were the buoys in the navigation of the municipal river. Borough treasurers particularly were wonderful men. The sums they handled were staggering. He had with him some figures—supplied, of course, by the borough treasurer—of the money they dealt in. The total amount of the outstanding loans against the municipalities of England and Wales was 1,215 million pounds. It was double the amount it was ten years ago. These were the sums the county and borough councils of the country spent upon their various services—education 58 millions, public health 92 millions, housing 464 millions, highways 97 millions, and water 157 millions. Without the aid of experts in the handling of such sums the Corporations would be helpless and hopeless.

Ald. JOHN POTTER proposed "Our Guests," and in doing so thanked the President for again making a journey from London specially to be with them. They had had many excellent Presidents, but in Mr. Cassleton Elliott they had a gentleman who was making himself very popular with all the District Societies. Mentioning Mr. Cassleton Elliott's reference to the International Congress of Accountants, Ald. Potter said their own Parent Society's Secretary, Mr. Garrett, acted as joint assistant secretary and played a prominent part in the arrangements. (Hear, hear.) Ald. Potter referred to the presence of Mr. Collins. He supposed most of them knew that Mr. Collins was trained at Blackpool, and he was sure it must be a source of great delight to him, as it was to all of them, that his old chief, Mr. Bateson, was present with them that night. They had many other eminent guests. He could not mention them all by name, but he would say to all of them how delighted they were to welcome them.

Ald. ASTLEY-BELL, who responded, said he wondered whether it was by accident or design that he had been placed at dinner between the Official Receiver and an eminent lawyer. As a representative of a very depressed trade he would assure them that most of the men in his line of business were going to enormous trouble just now to avoid too close contact with the Official Receiver. (Laughter.) He had been wondering if at a gathering such as that they could not get together and use their influence to produce a better public feeling in the country. If they could they would have produced something tangible and lasting. At last he thought there was returning some of that confidence which had been lacking so many years. It was a complete return of confidence which must come before there could be any free trading, but they were up against unfortunate difficulties. So long as 27 countries had it laid down as their policy to do as little trade as possible outside their own borders and to bring that into effect used quotas and tariffs, it was perfectly hopeless to look for the former standard of world prosperity. Those restrictions must be removed.

CHARTERED INSTITUTE OF SECRETARIES.

ANNUAL DINNER.

The annual dinner of the Chartered Institute of Secretaries was held at the Guildhall on November 21st. Mr. F. Gurdon Palin (President of the Institute) was in the chair, and the guests and members present included the Lord Mayor of London (Sir Charles H. Collett), Lord Leverhulme, Lord Plender, Mr. R. M. Holland Martin, C.B., Alderman Sir Charles Batho, Venerable E. N. Sharpe (Archdeacon of London), Sir Edward Crowe (Comptroller-General, Department of Overseas Trade), Sir Percy Mackinnon (Chairman of Lloyd's), Alderman Sir Stephen Killik, F.S.A.A., Mr. F. Greenwood (Registrar of Companies), Mr. E. Cassleton Elliott (President, Society of Incorporated Accountants), Mr. A. E. Cutforth (Vice-President, Institute of Chartered Accountants), Hon. George Colville, O.B.E. (Secretary, Institute of Chartered Accountants), Mr. A. A. Garrett, M.A., F.C.I.S. (Secretary, Society of Incorporated Accountants), Colonel William Parker, D.S.O., Mr. Edward Wilshaw, J.P., and Mr. F. R. E. Davis, O.B.E. (Past Presidents of the Institute), and Mr. C. H. Isdell-Carpenter, O.B.E. (Secretary).

Mr. R. M. Holland Martin, C.B., proposing the toast of "The Chartered Institute of Secretaries," spoke of the important work done by the Institute since its formation forty years ago. Nearly all the bigger businesses to-day were joint stock companies, each of which required a secretary.

The President, Mr. F. Gurdon Palin, responded to the toast. He said that the Institute maintained a high standard of knowledge and ability among its members, and their integrity was jealously guarded by the Disciplinary Committee. Over £5,000,000,000 of capital was involved in joint stock companies, and in the main

these companies were managed as well and as honestly as any private business. On some occasions when an interest in a company was split up into shares, an advantage might be taken by unprincipled people to create an unfair market in those shares; but the Stock Exchange had recently strengthened its safeguards, and could be relied on to secure that promoters did not look solely to Throgmorton Street for their profits instead of to the success of the undertaking. He would like to offer his personal tribute to directors of great concerns which had to carry on business under present-day conditions.

Mr. Hildred Carlisle (Vice-President) proposed "The Corporation of London."

The Lord Mayor, in reply, said that London was the greatest port in the world, and could take pride in its present as well as in its past.

Mr. W. G. Hislop (Vice-President) proposed "The Guests," and Captain Oliver Lyttleton, D.S.O., responded.

ANNUAL REPORT

The following are extracts from the Report of the Council :—

MEMBERSHIP.

During the year ended August 31st, 1933, the net increase in membership was 136. On that date the number on the roll was 6,995, of whom 2,300 were Fellows and 4,695 were Associates. 326 new members were elected, and sixteen former members were re-admitted. The number whose membership ceased through death or other cause was 206.

EXAMINATIONS.

The results of the examinations held in September, 1932 (Preliminary), December, 1932 (Preliminary, Intermediate and Final), March, 1933 (Preliminary) and June, 1933 (Preliminary, Intermediate and Final) were as follows :—

	Candidates	Passed
Preliminary	441	288
Intermediate	2404	1118
Final	1550	436
	4395	1842

It cannot be doubted that some of these figures indicate that many candidates enter before they are adequately prepared.

The "Sir Ernest Clarke" Prize for the candidate securing the highest marks in the Final examination was awarded as follows :—

December, 1932 : Eric Weavell (Stoke-on-Trent).

June, 1933 : Philip Norman Wallis (Kettering).

The "W. E. Wallace Memorial" Prize for the candidate in the Final examination in June of each year whose paper on Secretarial Practice secures the highest marks was awarded to Bruce Clement Lindsay, of Cape Town, South Africa.

The Council has instituted an award from the funds of the Institute of a prize of £5 to the candidate at an oversea branch centre obtaining the highest aggregate number of marks at each Final examination, provided the worked papers are of a sufficiently high standard in the opinion of the Membership and Examination Committee to justify an award. This oversea prize at December, 1932, was awarded to George Richard Ashbridge, of Wellington, New Zealand. In June, 1933, the prize was awarded to Bruce Clement Lindsay, of Cape Town, South Africa.

Language Prizes were awarded as follows :—

December, 1932 : In the Final examination, three for French. In the Intermediate examination, seven for French and two for Spanish.

June, 1933 : In the Final examination, two for French. In the Intermediate examination, one for French, one for Spanish, one for Portuguese and one for German.

Sixteen candidates qualified for the prizes offered by the Council annually in June for the best pass candidates in the Intermediate and Final examinations attending complete chartered secretaries' courses of instruction provided at colleges and schools of commerce.

STUDENTS.

The number of students, including articled clerks, registered during the year was 1,634. The total number on the Students' Register at August 31st was 8,859.

UNIVERSITY COURSES.

The classes in Secretarial Practice, established by the Institute in conjunction with University authorities, have been continued throughout the year at Sheffield, Durham (at Armstrong College, Newcastle-upon-Tyne), Edinburgh, and at Toronto (Ontario) and Winnipeg (Manitoba).

SESSIONAL EXAMINATIONS AT COLLEGES OF COMMERCE.

The experimental arrangement under which a pass in the sessional examination in specified subjects of certain colleges and schools of commerce is recognised in lieu of a pass in the same subjects in the Intermediate examination of the Institute has been extended until June, 1934.

EXAMINATION SYLLABUS.

The certificates of the qualifying examination of the Institute of Bankers and of the Preliminary examination of the National Association of Local Government Officers have been added to the list of those entitling to exemption from the Preliminary examination.

The concession of exemption in certain subjects of the Intermediate examination under regulation 5 has been extended to the Queen's University, Kingston, Ontario, in respect of graduates in Arts, Law or Science.

In pursuance of the power vested in the Council it has been decided that as from the December, 1933, Intermediate examination, four instead of three subjects shall be the extent of the exemption under regulation 5 in favour of graduates and diplomees in commerce, graduates in arts, law or science of certain specified universities and holders of the Final examination certificate of certain professional bodies.

ADVERTISING OR CANVASSING.

In view of inquiries it is felt some guidance should be given to members as to the propriety of soliciting work. In 1923 the Council decided that advertising by members for business of a nature dealt with by other members of the Institute should be regarded as unprofessional; and the Council has recently further decided that advertising or canvassing by members for work of any description is to be regarded as unprofessional. This does not ordinarily apply to efforts by a member to obtain an appointment; nor to a member's activities in seeking business for his employer.

Mr. A. B. Clutterbuck, F.S.A.A., has been appointed High Sheriff of the City of Gloucester for the year 1933-34.

District Societies of Incorporated Accountants.

BRADFORD.

Syllabus of Lectures, 1933-34.

1933.

Oct. 12th. "Law of Agency," by Mr. R. M. Priestley, LL.B., Solicitor. *Chairman:* Mr. W. S. Wilson, A.S.A.A.

Oct. 26th. "Income Tax," by Mr. Victor Walton, F.C.A. (At Great Northern Victoria Hotel.) *Chairman:* Mr. Tom Hudson, F.S.A.A.

Nov. 16th. "Economics of Costing," by Mr. W. H. Stalker, A.S.A.A. (At the Bradford and County Conservative Club, Market Street.) *Chairman:* Mr. Joseph Rhodes, F.S.A.A.

Nov. 30th. Joint Debate with Sheffield District Society. (At Bradford.) *Chairman:* Mr. C. E. Claridge, F.C.A., F.S.A.A.

Dec. 14th. "Law of Intestate Succession," by Mr. E. Westby Nunn, B.A., LL.B., Barrister-at-Law. *Chairman:* Mr. H. Reynolds, F.S.A.A.

Dec. 20th. Smoking Concert at Kiosk Café, North Street, Keighley. *Chairman:* Mr. A. B. Kitchen, F.S.A.A.

1934.

Jan. 16th. "Company Accounts, Amalgamations, &c.," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A. (At Kiosk Café, North Street, Keighley.) *Chairman:* Mr. H. D. Myers, F.S.A.A.

Jan. 22nd. "Costs Accounts in Theory and Practice," by Mr. E. Miles Taylor, F.C.A., F.S.A.A. *Chairman:* Mr. F. Dean, A.S.A.A.

Jan. 26th. Annual Dinner. (At Midland Hotel, Bradford.)

Feb. 1st. "Banks and Industry," by Professor J. H. Jones, M.A. *Chairman:* Mr. R. H. B. Heap, F.S.A.A. (At the Great Northern Victoria Hotel.)

Feb. 13th. Joint Meeting with Yorkshire District Society. (At Leeds.)

Feb. 21st. Sixth Annual Supper Dance in the Midland Hotel.

Feb. 28th. "Banking and the Price Level," by Mr. W. Bell, M.A. *Chairman:* Mr. H. A. Horsfield, F.S.A.A.

Mar. 13th. Joint Meeting with Chartered Students and Law Students. "Hat Night."

Mar. 26th. "The City Page," by Mr. J. C. Rea Price. *Chairman:* Mr. A. E. Stringer, F.S.A.A. (At the Midland Hotel.)

Meetings are held at 7.30 p.m. in the Liberal Club, Bank Street, Bradford, except where otherwise stated.

CUMBERLAND AND WESTMORLAND.

Syllabus of Lectures, 1933-34.

1933.

Oct. 27th. "Bankruptcy," by Mr. T. B. Harston, LL.B., Official Receiver in Bankruptcy.

Nov. 29th. "Auditing," by Mr. W. H. Grainger, F.S.A.A.

1934.

Jan. 9th. "How to Read the Money Article," by Mr. H. K. Campbell, M.B.E.

Jan. 19th. "Income Tax," by Mr. J. Ross, B.Com., H.M. Inspector of Taxes.

Feb. 23rd. "Executorship Law and Accounts," by Mr. E. Westby-Nunn, B.A., LL.B., Barrister-at-Law.

Mar. 22nd. "Economics," by Prof. J. H. Jones, M.A., Department of Economics, Leeds University.

Apr. 10th. "Revision," by Mr. H. A. R. J. Wilson, F.C.A., F.S.A.A.

All lectures will be held in the Town Hall, Carlisle, at 7.30 p.m.

LIVERPOOL.

The Autumn Session of the Liverpool District Society was opened on October 19th with an address by Professor J. H. Jones, M.A., on "Economic Policy during the next Fifty Years." The chair was occupied by the President, Mr. Alexander Hannah.

In the course of an address of exceptional interest, the lecturer said that the first necessity was currency stability and greater freedom of intercourse between nations, possibly based upon the restoration of the gold standard—"the finest economic instrument of internationalism, and therefore one of the finest instruments for maintaining peace." Our economic policy must be determined by purely economic considerations. He did not share the common fear of "technical unemployment." The recent reduction of hours in the United States had been made, not because the world could afford greater leisure, but because it was frightened that technical advances would prevent the absorption of labour.

Professor Jones suggested that possibly some form of organisation of industry might be found on the model of the B.B.C. which would combine the best of private enterprise and the best of State control. He hoped that, at any rate, the developments of the next fifty years would strengthen the British love of liberty and freedom and the sense of justice and toleration.

On November 18th members of the Liverpool Society and their ladies took part in a visit to Incorporated Accountants' Hall. The party numbered 61 and was led by Mr. Alexander Hannah (President) and Mr. Charles M. Dolby (Hon. Treasurer). On arrival they were received by Mr. A. A. Garrett (Secretary of the Parent Society) and Mr. Ernest E. Edwards (Parliamentary Secretary), and, after short addresses regarding the history and main features of the Hall, were shown over the building. A special display of prints dealing with the neighbourhood of the Hall and of books illustrating the history of accountancy had been arranged by Mr. Garrett in the Library, and was greatly appreciated. Afternoon tea was then served, the party being received by the President of the Parent Society (Mr. E. Cassleton Elliott) and Mrs. Cassleton Elliott. On the proposal of Mr. Alexander Hannah, President of the Liverpool District Society, a cordial vote of thanks was accorded to Mr. and Mrs. Cassleton Elliott. Amongst those present were Mr. and Mrs. Garrett, Mr. and Mrs. Edwards, and Mr. Hannah, Mr. Dolby, Mr. Lewin and Mr. Bertram Nelson (members of the Liverpool Committee).

SOUTH WALES AND MONMOUTHSHIRE.

(CARDIFF AND DISTRICT STUDENTS' SECTION.)

There was a large attendance at a mock shareholders' meeting held on November 9th. Mr. V. F. Alban, A.S.A.A. (Chairman of the Students' Section), occupied the chair in the capacity of Chairman of Board of Directors, and other officers and shareholders of the company were: Mr. Noel Cliffe, Mr. J. T. Jones, and Mr. J. S. Price (Directors); Mr. R. R. Davies, A.S.A.A., Mr. B. S. Horspool, and Mr. G. M. Richards (Dissenting Shareholders); Mr. D. R. Carston (Auditor); Mr. K. S.

Williams, A.S.A.A. (Solicitor); Mr. J. Alun Evans (Secretary).

Severe criticism was levelled at the directors and officers of the company. A large number of pertinent questions upon the accounts before the meeting were submitted, and the shareholders expressed their dissatisfaction with the financial position in no uncertain manner.

The meeting proved a great success and the many points brought out in the course of the discussions were of great help to the student members. A unanimous vote of thanks was accorded to those responsible for the arrangements.

MANCHESTER.

On November 18th a party of about 140 members and friends of the Incorporated Accountants' Society of Manchester and District paid a visit to the new Town Hall at Stretford, which was opened by Lord Derby after the recent elevation of Stretford to the dignity of a Municipal Borough. The party were welcomed by the Borough Treasurer, Mr. Lewis Lord, F.S.A.A., and were subsequently conducted round the building. Mr. Lord personally explained the organisation of his department and pointed out that the actual lay-out of the department by the architects had been designed to conform with the most modern ideas of accounting and financial administration. The members and their friends were entertained to afternoon tea, and were addressed by Sir Thomas Robinson, the first Mayor of the new borough. The members were much impressed with the beautiful workmanship in the building and with the organisation and planning of the departments.

CLAIM FOR ACCOUNTANTS' CHARGES.

In the Mayor's and City of London Court, before Judge Cecil Whiteley, K.C., Messrs. Clements, Hakim and Co., 10-13, Newgate Street, E.C., brought a claim against Messrs. C. Billson and Co., Ltd., to recover the sum of £15 10s. in respect of professional charges—being £10 10s. agreed audit fee and £5 out-of-pocket expenses.

Mr. Eric Cuddon (instructed by Messrs. Reginald Johnson & Co.) and Mr. Bratt (of Messrs. Bratt & Lewis) represented the respective parties.

Mr. Jack Clements, a partner in the plaintiff firm, said that at an interview with Mr. Billson on July 11th he was asked to undertake an audit of the accounts of the defendant company's various branches. The preliminary work was commenced, Mr. Hakim went down to the Brighton branch and witness to the Chatham branch on July 24th. Witness waited about all day at Chatham, but no one turned up there, and on the following day he saw Mr. Billson and complained of this, and got from him a letter confirming the instructions to carry out the audit for a fee of £10 10s., plus reasonable expenses. Witness said he was asked by Mr. Billson if he could get the work done within ten days, but he said he could make no definite promise, but would get on with it as quickly as possible. At the beginning of August witness went to the Newcomen Street branch. When he got there he found a Chartered Accountant conducting the audit. This was a complete surprise to both accountants. As witness had not received any notice of another auditor being appointed, he telephoned to Mr. Billson and expressed his surprise and annoyance, but was told that as his firm had not done the work in the time expected of them, another accountant had been employed—and plaintiffs must do what they liked about the matter.

Mr. Bratt cross-examined witness, but could not get him to admit that he had promised that the audit should be completed within ten days or so, and he said he was not given to understand that time was the essence of the contract. The Judge pointed out that there was nothing in writing to that effect.

The Judge put many questions to Mr. Clements to ascertain precisely how much work was actually done and exactly what out-of-pocket expenses were incurred; and after considerable discussion he intimated that, as plaintiffs had not completed their work, he thought they should be content with half the fee and two guineas expenses.

His Lordship eventually gave judgment for seven guineas, with costs, and ruled that the plaintiffs must hand over the work so far as it had been completed. Judgment was also given in favour of plaintiffs on a counter claim set up by defendants.

BASIS OF ACCOUNTANTS' CHARGES.

Mr. Cyril Thompson Fitzgerald, Fellow of the Corporation of Accountants, Baker Street, W., brought an action in the King's Bench Division, to recover £2,650, balance of account alleged to be due from the defendant, Mr. Hunter Simmonds, bookmaker, residing at Kilworth Avenue, Southend-on-Sea, for work done.

Mr. Fitzgerald alleged that for 3¾ years, 1929-1933, he devoted himself as an income tax specialist to claims made by the Inland Revenue Authorities on Mr. Simmonds over a period of 20 years, amounting to £55,577, which he (Mr. Fitzgerald) settled for £14,000. He (plaintiff) claimed 7½ per cent. on the amount "saved," less £500 already received on account.

Mr. Simmonds, in his defence, said that in September, 1929, he employed Messrs. Page, Simpson & Co., Stratford, E., of which firm Mr. Fitzgerald was a partner, to deal with his income tax claims, and any work Mr. Fitzgerald did after April, 1931, when he ceased to be a member of the firm of Messrs. Page, Simpson was to carry out such work as remained to be done to effect a settlement with the Inland Revenue Authorities.

Mr. Simmonds also pleaded that Mr. Fitzgerald's charges were not fair or reasonable.

Mr. Monckton, K.C., and Mr. Gluckstein appeared for Mr. Fitzgerald; Mr. J. D. Cassells, K.C., and Mr. Bensley Wells represented Mr. Simmonds.

In his judgment, Mr. Justice Acton said the matter resolved into a question of what reasonable remuneration Mr. Fitzgerald ought to receive in all the circumstances for work he undoubtedly did. That the amount should be substantial was evident, because the matter with which Mr. Fitzgerald dealt was one of great difficulty and complication, involving very highly confidential treatment at the hands of an expert. He (the Judge) accepted Mr. Fitzgerald's statement that he worked for at least 1,200 hours upon these extremely complicated matters over a period of 3¾ years, giving the defendant the benefit of his time, skill and knowledge. Without oppressively applying any figure suggested in the evidence called, said the Judge, he thought Mr. Fitzgerald was entitled to 1,200 hours at two guineas per hour. That amounted to £2,520, and judgment would be for that sum, less £500 already paid, with costs.

On the application of counsel for the defendant, a stay of execution pending notice of appeal was granted on terms as to costs, and on condition that Mr. Fitzgerald received the sum of £500 whatever the result of the appeal.

Changes and Removals.

Messrs. William Clark & Stephens, Westgate Chambers, Newport (Mon.), have taken into partnership Mr. W. Stuart Simpson, Incorporated Accountant. The name of the firm will remain unchanged.

Mr. Robert Gair, Incorporated Accountant, Emerson Chambers, Blackett Street, Newcastle-on-Tyne, announces that he has taken his son, Mr. R. Kenneth Gair, into partnership. The business will be carried on at the same address under the style of Robert Gair and Son.

Mr. Lewis Heron, Incorporated Accountant, has removed his office to Prudential Buildings, 22A, Commercial Street, Halifax.

Messrs. Ker, Jones & Co., 7, Castle Street, Bridgwater, have admitted into partnership Mr. J. B. Butterworth, F.C.A., and Mr. V. C. Burston, A.C.A. There will be no change in the name of the firm.

Messrs. Sidney R. Knight & Co., Incorporated Accountants, announce that they have removed their offices to High Road Chambers, 3, Grosvenor Road, Ilford.

Mr. E. D. Stevenson, Incorporated Accountant, has commenced to practise at 69, Cabinet Chambers, Basinghall Street, Leeds.

Comparisons of Rates in Towns and Urban Districts

Mr. W. Allison Davies, F.S.A.A., Borough Treasurer of Preston, has again prepared his usual pamphlet giving a comparison of the rates levied in the various towns and districts in England and Wales. The tabulated figures, which are preceded by explanatory notes, show the rateable value, total rates levied, rate per head of population, the charges made for gas, water and electricity, and the extent to which the rates of each municipality have been increased or decreased by the profits or losses made on these undertakings. Particulars are also given of the purposes to which the rates have been applied, together with a comparison of the total rate levied for the preceding year.

Scottish Notes.

(FROM OUR CORRESPONDENT.)

Company Accounts.

"The Accounting Provisions of the Companies Act, 1929," was the subject of an address given by Mr. L. B. Bell, C.A., to the Edinburgh and East of Scotland Chartered Institute of Secretaries. Mr. Bell stated that, although there had been much amending legislation, the Companies Act was substantially and in its broad lines a re-enactment of the Companies Act, 1862, which had thrown open to all the advantages of limited liability. Mr. Bell expressed the view that there was a pretty general consensus of opinion that the information required by statute as to subsidiary companies was insufficient, and he made certain suggestions as to the extended information which should be required. He said that more information should be disclosed in a company's profit and loss account than was commonly given, and deprecated any proposal for a standardised form of accounts. On the question of inner reserves, he said it was much to be desired that any abuse should be removed through the voluntary action of directors and the influence of auditors, rather than by rigid methods of statutory enactment.

Business Budgeting.

Mr. John D. Imrie, M.A., F.S.A.A., City Chamberlain of Edinburgh, in the course of a recent address on the subject of "Accountancy in Relation to Municipal Finance," referred to the empirical development of Local Government, a development by trial and error, which had taken place over the centuries. He pointed out that the multifarious duties of Local Governments necessitated an involved but complete accountancy system which was closely supervised by central authorities. He referred to the Budget as the empire of Local Authority finance, and emphasised that an estimate of the revenue and expenditure of a municipality had to be carefully prepared and as closely adhered to.

The development of the budgetary system in connection with business was urged. The evolution of the large scale business unit had almost made budgeting a necessity. There were fundamental differences between Local Authority budgets and those of business. In a Local Authority business every endeavour was made to keep both sides, revenue and expenditure, at the lowest possible figure. If revenue were over estimated and a large credit balance resulted at the end of the year, then the administration were told that they had taken too much out of the ratepayers' pockets. On the other hand, if the estimates for expenditure were high, complaints were made as to extravagance in local expenditure. The aim of the business man would, of course, be to increase his budget on the income side of the account as much as possible but to keep down the expenditure.

Mr. Imrie indicated that, in his view, accurate sales forecasting was a prime necessity, and pointed out that with regard to such elements of expenditure as overhead costs, materials and labour, the development of cost accountancy had made possible accurate forecasting in such a way that the business budget was now a possibility. Indeed, he said, the evolution of such large scale organisations as the Central Electricity Board, the Milk Marketing Board, and other boards would not only make budgeting important from the point of view of these organisations, but would also lead business men in that direction if they were to avoid further Government interference.

Liability for Defalcations.

An interesting point arose recently in a case which came before Lord Mackay as to the liability of a secretary and manager for the peculations of a cashier. The secretary of the company, who was also manager of an Auction Company, was sued by the company for £403 14s., being the defalcations of their cashier, who was also the son of the secretary. As manager and secretary the defender had expressly undertaken certain duties towards the company of the nature of managing or supervising their cash concerns. He had persuaded the directors to appoint his son cashier. The company required a fidelity insurance policy from their cashier, and the defender, using his authority as secretary and manager to do so, completed the forms for the insurance company. The Auction Company relied on this for protection. By crude devices the cashier was enabled to peculate funds

to the extent of £444 2s. before he was found out, by which time he had left for South America. His Lordship held that these devices could have been discovered if there had been a reasonably suspicious supervision. Accordingly, he held that it was reasonably established that there was a definite connection between the slackness of supervision and the peculations, and while expressing some sympathy for a parent in the circumstances, the loss which had been incurred must fall, not on the company, who by the father's fault had lost their fidelity policy, but on the father, whose conduct made it possible for that loss to occur.

Notes on Legal Cases.

[The abbreviations at the end of each of the cases refer to the following law reports, where full reports of the case may be found. The Law Reports and other reports are cited with the year and the Division, *e.g.* (1925) 2 K.B. :—

T.L.R., *Times Law Reports; The Times, The Times* Newspaper; L.J., *Law Journal*; L.J.N., *Law Journal* Newspaper; L.T., *Law Times*; L.T.N., *Law Times* Newspaper; S.J., *Solicitors' Journal*; W.N., *Weekly Notes*; S.C., *Session Cases (Scotland)*; S.L.T., *Scots Law Times*; I.L.T., *Irish Law Times*; J.P., *Justice of the Peace (England)*; L.G.R., *Knight's Local Government Reports*; B.& C.R., *Bankruptcy and Company Cases.*

The other abbreviations used in modern reports are H.L., House of Lords; A.C., Appeal Court (House of Lords and Privy Council); C.A., Court of Appeal; Ch., Chancery Division; K.B., King's Bench Division; P., Probate, Divorce and Admiralty Division; C.S., Court of Session (Scotland); J., Mr. Justice (King's Bench or Chancery); L.J., Lord Justice; L.C., Lord Chancellor; M.R., Master of the Rolls; N.I., Northern Ireland; P., President of Probate, Divorce and Admiralty.]

COMPANY LAW.

Perrott & Perrott, Limited, *v.* Stephenson.

Appointment of Additional Directors.

By the Articles of Association of a company it was provided: "The governing directors shall have power from time to time to appoint and remove at will additional directors and to define and limit their powers and duties, provided that the total number of directors shall not exceed the prescribed maximum. Any directors so appointed shall retire from office at the next general meeting, but shall be eligible for re-election subject to the approval of the governing directors." Two governing directors of the company, against the wish of the third governing director, appointed additional directors.

It was held that the rule of corporation law that when a duty is delegated to a body of persons, those persons can act at a meeting by a majority had no application to the case of Articles of Association of a company incorporated under the Companies Acts, and that on the construction of the above Article the powers conferred on the governing directors must be exercised by them all.

(Ch.; (1933), 50 T.L.R., 44.)

In re R. E. Jones, Limited.

Putting of Resolutions.

Where on a show of hands there are two resolutions before a meeting of shareholders, one for the reduction of capital and another for the conversion of preference shares into ordinary shares, and where there is a right to a poll, the chairman may put the resolutions *en bloc* if no shareholder requires him to put them separately.

(Ch.; (1933). 50 T.L.R., 31.)

In re Barry and Staines Linoleum Company.

Relief to Director for Negligence.

A director prayed that he might be relieved from any penalties (1) by reason of his having acted as such without being qualified; (2) from any liability in drawing remuneration in respect of a period during which he acted as but was not in fact a director.

Maugham (J.) held that the director was entitled to relief under sect. 372 of the Companies Act, 1929, as he had acted honestly and reasonably notwithstanding that there had been a certain amount of negligence. In regard to the second prayer, the Court ought not to exercise its jurisdiction without clear evidence of the attitude of all persons concerned, and as there was no evidence of the wishes of the shareholders, the relief on the second prayer was refused.

(Ch.; (1933), L.T.N., 330.)

INSOLVENCY.

In re Coulson.

Discharge and Subsequent Bankruptcy.

The Bankruptcy Act, 1914, sect. 25, provides that the Court may, on the application of the Official Receiver or Trustee, at any time after a receiving order has been made against a debtor, summon before it the debtor or his wife, or any person known or suspected to have in his possession any of the estate or effects belonging to the debtor, or supposed to be indebted to the debtor, or any person whom the Court may deem capable of giving information respecting the debtor, his dealings or property.

The Court of Appeal held that the powers as to examination given by sect. 25 are not limited as to time or to the duration of the bankruptcy.

(C.A.; (1933), L.J.N., 258.)

REVENUE

Lewis *v.* Commissioners of Inland Revenue.

Share of Profits of a Partnership Business.

For the purpose of an assessment to super tax of a partner under sect. 20 of the Income Tax Act, 1918, his income from the profits of the partnership is to be ascertained by dividing among the partners the income of the firm assessable to income tax under Schedule D for the preceding year, and the division is to be made, first, by allocating to each partner any salary, commission, or interest on capital to which he is entitled for the year of assessment, and, secondly, by dividing the balance of that income among the partners in the proportion provided by the partnership deed.

(C.A.; (1933), 2 K.B., 557.)

Commissioners of Inland Revenue *v.* Falkirk Iron Company.

Mode of Assessment of Income Tax.

An iron foundry company which had leased warehouse premises for the purposes of its business discontinued doing business in them during the currency of the lease and sub-let parts of the premises for the remainder of the lease. In computing its profits for assessment to income tax the company claimed to be entitled to deduct the rent paid for the premises less the sub-rents received.

It was held by the Court of Session that as the company had leased the premises in question in the ordinary course of business the net outlay for rent represented the expenditure necessary for the purposes of its trade even though the premises were no longer used, and was therefore a proper deduction.

(S.C.; (1933), S.C., 546.)